

## PLANNING APPLICATION: 15/02020/APP

*In the event that a recommendation on this planning application is overturned the Committee is reminded of the advice contained on the front page of the agenda for Reports on Applications*

### **THE PROPOSAL**

- Application for planning permission (as amended) for residential development and associated infrastructure on land to east of Birnie Road incorporating land designated for housing on Elgin R9 (Driving Range) and R8 (Glassgreen).
- Two existing cottages, located towards the south-eastern corner of the site, to be removed (demolished).
- 134 new build dwellings (houses and flats) to be provided with 97 private and 37 affordable units of accommodation.
- 97 (private) dwellings comprise a mix of 77 houses and 20 flats.
- 20 (private) flats, including 8 flats for rental are proposed within 5 two-storey blocks, each with four 2-bedroom flats. Three (private) blocks (12 flats) are located in the south-western part of the site (Plots 53/54-63/64) and two (private rental) blocks (8 flats) are located towards the south-eastern corner of the site (Plots 31-34) where the existing cottages will be demolished. Each flat block is identical in design (Auldearn) with proposed external finishes to match the remainder of the development.
- 77 (private) houses are provided from 8 different house types using a mix of detached and semi-detached forms, all similar in scale or height. One house type (Dallachy) is also used to provide a short terrace of 3 houses (Plots 76-78), the only terrace group of housing provided within the development. 7 house types appear as two-storey to their rear but with their asymmetric roof design, the use of dormers and/or small projecting gable feature details on their front (principal) elevations suggest a 1½-storey style or form. The remaining house type, Culbin is L-shaped and similar in scale with the remainder of the properties but with upper floor accommodation served by dormers (to front and side elevations) or windows in its front and rear gables.
- Excluding plots 7-10, 40, 77, 96, 121, 122, 124 and 125, all other private houses have an option to add a sun lounge onto their rear elevation, to be finished in materials to match the house.
- 37 affordable houses are proposed from 5 different house types using a mix of detached, semi and flatted forms of accommodation. The housing mix includes 6 single-storey properties (using 2 different (C and Y) house types, including two semi-detached properties each with an attached car port (Plots 35-36)); 19 two-storey houses (all semi-detached except for the detached Plot 18 using 2 different (D and F) house types; and 12 flats, the latter provided within three 2-storey blocks, each with 4 flats and identical in design (A type)). The affordable houses are located in the southern part of the site on Plots 12-26, 35-36, 43-50 and 66-75.
- 10 accessible houses will be provided i.e. 6 ground floor apartments (Auldearn, Plots 53/54-63/64) and 4 two-storey, 3-bedroom houses (Crossley, Plots 82-83, 90 and 107).

- Proposed external finishes, identical for all new build private and affordable houses, include grey concrete roof tiles and white wet dash render and/or larch clad walls, all set on a smooth concrete base course.
- For all flatted accommodation, grouped (communal) parking arrangements are proposed, generally located either to the front, rear or side of their front (principal) elevations.
- For all houses, parking is "in-plot" some with (integral) garage arrangements and/or 2 or 3 spaces, generally located to the front, side or rear of each property. The latter includes Plots 1-11 and 119-126, located along the western boundary of the site, which have their principal (front) elevation facing Birnie Road.
- Two vehicular accesses are proposed onto Birnie Road, one access located mid-way along this frontage of the site and one access located in the north-western corner of the site (with the latter capable of accommodating public transport vehicles).
- Three vehicular access connections are proposed between this proposed development and Duncansfield to the east, one located in the north-eastern corner, one mid-way along the eastern boundary, and one in the south-eastern corner of the site.
- Footpath and cycle connections are proposed both within the site and to/from the surrounding area i.e. onto Birnie Road and into the adjoining Duncansfield development.
- Along the southern boundary, three "future connections" are identified between the site and the land to the south i.e. two vehicular accesses, one located towards the south-eastern corner and one located midway along the southern boundary, and one pedestrian/cycle link located towards the south-western corner of the site.
- Excluding garden areas within individual house plots, areas of green space (of varying size) are provided within the site. These include smaller areas located along some road frontages within the site and larger, linear areas extending along the western and northern boundaries of the site. The largest green space area, located centrally within the site, connects through to a similar large green space (amenity and play area) located within the Duncansfield development.
- An approx. 4 metre wide landscape strip is proposed along the northern boundary, to the north of the proposed (secondary) access road. This area will tie into an existing landscape strip which incorporates a cycle/foot path located along the southern boundary of the adjoining Glassgreen development to the north.
- An approx. 8 -10 metre (min) wide landscape strip, incorporating a cycle/foot path, will be provided along the western (Birnie Road) frontage of the site.
- The various areas of green space cover approx. 15% of the total site area.
- No play area is included (or required) within the site.
- Individual plots to be defined by hedging and/or 0.45 metre high trip fencing (to front garden areas) and 1.8 metre high timber screen fencing (to side/rear garden areas).
- In addition to turfing (within plots) and grass seeding (within open space amenity areas), tree, shrub and hedge planting are also proposed, including feature trees along the access "avenue" which links the largest open space areas within this and the adjoining Duncansfield developments.
- The landscape scheme includes detailed planting specifications (species and sizes, etc.) and a schedule for landscaping identifying the maintenance regime for all planting.

- Public water supply and foul (waste water) drainage connections are proposed. For the latter, the development will have a gravity flow from all parts of the site to two connection points into the existing Duncansfield drainage infrastructure.
- Surface water drainage arrangements have yet to be designed but the arrangements will be similar to those within the Duncansfield development. No surface water outfall will be required and SUDs will be used with separate systems for dispersal of roof and roads drainage.
- Supporting documents with application include a Pre-application consultation report (PAC), Design and Access Statement (DAS), Planning Statement (PS), Drainage Impact Assessment (DA), Transport Assessment (TA) and Addendum Transport Assessment (ATA); Contaminated Land Study, Preliminary Ecological Appraisal (PEA) and Preliminary Bat Roost Assessment (September 2015), Summer Bat Survey (May/June 2016), Design and Sustainability Statements/Checklists and a revised Accessible Housing Statement (July 2016).

## **THE SITE**

- Approx. 5.43ha site located towards the south-west of Elgin.
- To the east and north, the site is bounded by new and existing housing developments at Duncansfield and Glassgreen respectively. An existing landscape strip, incorporating a foot/cycle path, is located between the Glassgreen development and this and the adjoining Duncansfield site.
- To the west, the site is bounded by Birnie Road with Elgin Golf Club located on the opposite side of the road and by agricultural land to the south.
- Generally, the site has a fairly uniform gradient sloping north-west to south-east, from approx. 37.5mAOD to 27mAOD.
- The majority of the site is currently used as a golf driving range with an existing driving range building and car park located at the southern end of the site. The western boundary of the driving range area is set back from Birnie Road and separated from it by a broad grassed strip of land extending along the roadside.
- In the south-western corner of the site, an existing access off Birnie Road leads to the existing driving range facility and to two cottages located in the south-eastern corner of the site.
- Land located outwith the existing driving range area but located along the northern boundary of the proposed site is the residual part of a large field area, on which the Duncansfield development is being built. Currently, this linear strip is being used as a construction compound for that development. This land area (approx. 130 x 25 metre wide) was formerly identified (albeit indicatively) and reserved as a line or corridor for a potential Elgin by-pass (south option).
- The site is designated for residential development in the Moray Local Development Plan 2015. The majority of the site forms part of the Elgin R9 Driving Range designation. The remainder of the site i.e. the land located along the northern boundary of the site but not forming part of the driving range forms part of the residential designation, Elgin R8 Glassgreen. On the opposite side of Birnie Road the land to the north of Elgin Golf Course is subject to a residential designation, Elgin R7 Birnie Road. The Elgin R7 and R8 designations have been marketed as Duncanshill and Duncansfield respectively.
- Land to the south and west of the site forms part of the Elgin 'Countryside Around Towns' designation. The land to the south also forms part of the Elgin LONG2 designation which is intended to indicate a longer-term direction of future growth of

Elgin but not expected to be developed during the currency of the MLDP 2015. To date, the Council has agreed to an early release of part of the Elgin LONG2 designation, a masterplan for this designation has yet to be agreed although a draft masterplan has been subject to public consultation. A formal application for Phase 1 of this development (also referred to as Elgin South) has recently been submitted and is current under consideration.

## **HISTORY**

**4 December 2015** - Screening Opinion adopted under the current Environmental Impact Assessment Regulations 2011 (EIA) for this development where, after taking account of the characteristics and location of the development, and the characteristics of the potential impact associated with this development, the proposal, as a 'Schedule 2 development', would not be likely to result in significant environmental effects, hence formal EIA procedures are not required.

**15/01232/PE** - Residential development and associated infrastructure on land to east of Birnie Road incorporating Site R9 Driving Range and part of R8 Glassgreen - following a pre-application meeting, the response (22 September 2013) provides initial feedback on the proposal, including comments from consultees, information requirements expected to accompany any formal application for planning permission and recommendations for further pre-application consultation with consultees.

**15/01260/PAN** - Proposal of Application Notice (PAN) for residential development and associated infrastructure on land to east of Birnie Road incorporating Site R9 Driving Range and part of R8 Glassgreen - response (14 July 2015) confirms the requirements for consultation with the local community.

Following consideration of the PAN by the Council's Planning & Regulatory Services Committee (on 11 August 2015) and in terms of matter(s) that should be drawn to the applicant's attention and be taken into account in the development of the application, the Committee advised that the applicant should note the current pressure on school rolls in the area.

*On land at Duncansfield and Duncanshill (land currently designated as Elgin R7 and R8, formerly R9 and R10):*

**10/02115/APP** - Erection of 30 houses on site R9 and 90 houses and 60 flats on site R10 at R9 (Birnie Road) and R10 (Glassgreen) Elgin - approved 15 May 2012 subject to conditions and a legal agreement in respect of contributions towards infrastructure contributions associated with the development.

**14/01514/APP** - Erection of 40 dwellinghouses (28 flats and 12 houses) on site R10 Glassgreen - approved 23 October 2014. This proposal revises (reduces) the amount of development within part of the approved site area from 60 flats to 40 dwellinghouses after agreement to transfer the affordable housing requirement from the R10 site to elsewhere.

**15/00928/APP** - Residential development of 19 private dwellinghouses including associated infrastructure on balance of designated site R10 Glassgreen - approved 3 November 2015.

**15/02056/APP** - Residential development of 14no apartments and 3no dwellinghouses on balance of designated site R7 Birnie Road and R8 Glassgreen Elgin at site at Duncanshill South Birnie Road - currently pending consideration.

*For the Elgin LONG 2 site to the south:*

**16/00053/PAN** - Proposal of Application Notice (PAN) for proposed (Phase 1) residential development (potentially including some student residential accommodation) potential associated neighbourhood uses within Class 1 Shops, Class 2 Financial, Professional and Other Services, Class 3 Food and Drink, Class 4 Business, Class 8, Residential Institutions, Class 10 Non-Residential Institutions, sports centre (with provision for indoor and outdoor sports and recreation), two primary school sites, associated infrastructure (transport, drainage and open space) and landscaping at Elgin South MLDP2015 Long 2 Elgin - response (2 February 2016) confirms requirements for consultation with the local community.

Following consideration of this PAN, the Council's Planning & Regulatory Services Committee advised (on 23 February 2016) that with all traffic required to use Thornhill Road, Reiket Lane and Linkwood Road, consideration should be given to provide an access from the A941 road early within the development to address existing traffic pressures including congestion within the Elgin road network.

**16/01244/APP** - Phase 1 of Elgin LONG2 south to include 870 houses neighbourhood uses including Classes 1 shops, 2 financial professional and other services, 3 food and drink, 4 business, 8 residential institutions, 10 non-residential institutions, Moray Sports Centre (with provision for indoor and outdoor recreation) two primary school sites and associated infrastructure (transport drainage and open space) and landscaping at Elgin South - current under consideration.

*On land to south of Elgin LONG2 designation:*

**15/02122/APP** - Change of use from agricultural land to a new practice area and the formation of parking and vehicular access into public road at site 830m south of Glassgreen Driving Range, Elgin - approved 24 February 2016.

## **POLICY - SEE APPENDIX 1**

### **ADVERTISEMENTS**

- Advertised as a departure from the development plan
- Advertised for neighbour notification purposes

### **CONSULTATIONS**

**Planning & Development** - No objections. Following the original Quality Audit (QA), the applicant has provided further details regarding landscaping and the housing mix with regards to an affordable housing/accessible housing contribution to the development. The improved, and more detailed, landscaping plan shows planting across the whole site, where feature trees will be located and what boundary treatments will be used. The landscape plan is acceptable.

The revised layout now shows where the affordable housing contribution will be located and a (revised) accessible housing statement has been provided. The (revised) QA previously identified 'housing mix' as a "red" but there are no objections to the revised layout subject to agreement being reached with Housing over the affordable/accessible contribution to ensure full compliance with Policies H8 and H9. The Sustainability Statement is acceptable and in meeting the required criteria, the proposal is in accordance with Policy PP2, Climate Change.

The development is located on the Elgin R9 Driving Range site with the existing R8 Duncansfield site to the east and the Elgin LONG2 designation immediately to the south. The site will become a gateway into Elgin from Birnie Road, and it is important that the layout reflects this and an attractive entrance way is created. The design of the development must be of a high standard to reflect its situation and applying PP3 place-making principles is pertinent to achieving this. The application details differ from pre-application discussions and previous sketch layouts including those identified in the DAS.

**Building Standards** - Building Warrant required.

**Environmental Health** - No objections.

**Environmental Health Contaminated Land** - No objection subject to condition recommended for investigation together with details of remediation methodology, etc.

**Environmental Protection/Moray Access Manager** - No objection subject to a condition requiring further details about the Public Access Plan, to include supporting text to explain the rationale and programme to implement the public access features.

**Transportation Manager** - No objection subject to conditions and informatives as recommended, the former to include revised layout details to address road safety issues (as specified); details of any construction access; arrangements to maintain and manage roads SUDs; specifications for visibility splay at all internal junctions, parking standards and driveway lengths etc.; and for road improvements to realign Birnie Road to provide a continuous 6 metre (min.) road width together with provision of drainage, footways and cycle paths, and crossing points etc., to be provided prior to commencement of 50th unit.

In the TA/ATA, queue length information has not been provided for observed junction surveys and junction modelling has not been calibrated against queue lengths, thus the impact can only be considered on a relative (indicative) basis. The results are not representative of any existing queuing/delays or likely future impacts but the modelling demonstrates that the development will have a negative impact in relative terms on delays and queue lengths at the A941/Edgar Road roundabout, with an increase in queuing as a result of additional development traffic indicated on the New Elgin Road approach from the north (over the railway bridge) which is, a critical link at the A941/Edgar Road roundabout. Traffic queuing on this approach would have an adverse effect on the operation of the wider road network should it extend as far north as the Laichmoray roundabout. The testing in the TA/ATA does not indicate queuing to that extent because the junction modelling has not been calibrated against observed queuing. With each additional development within Elgin likely to generate traffic and use this part of the road network, the cumulative effect of development should not be dismissed.

Whilst there is no committed roads improvement scheme which would provide additional capacity at the A941/Edgar Road roundabout, or result in re-distribution of traffic to

alternative routes, an indicative improvement scheme has been identified for this roundabout. As improvements at this junction would not be solely attributable to the proposed development, a proportional financial contribution is sought towards the provision of mitigation measures at this key constraint on the road network. Details of the level of contribution sought were provided as part of a viability assessment for the proposed development.

**Housing Strategy and Development Manager** - No objections. At 25%, Policy H8 would require 33.5 of the 134 units to be provided for affordable housing. It is accepted that the affordable housing contribution (4 units) in respect of the Duncanshill South development (application 15/02056/APP) can be delivered as part of the current application. 37 affordable units are shown on the amended site plan layout and it is accepted that this meets the affordable housing requirement for the current and Duncanshill South developments. The applicant has shown the housing mix requested by Housing and Property. A condition is recommended regarding the arrangements for delivery of this accommodation.

Policy H9 requires 10% of private sector units to be built to wheelchair accessible standards i.e. 10 units (of the 97 private units must comply with accessibility standards). The (amended) Accessible Housing Statement demonstrates compliance with Policy H9 and associated Supplementary Guidance i.e. the 6 ground floor apartments of the Auldearn house type and 4 three-bed, two-storey Crossley houses.

**Aberdeenshire Archaeology Services** - No objection subject to conditions requiring a Level 1 Standing Building Survey of the Glassgreen Cottages (to be demolished) and the implementation of a programme of archaeological works, in accordance with a written scheme of investigation to be submitted/approved, to allow recording and recovery of archaeological resources. This should include an archaeological trial trenching evaluation of 5-7% of the total proposed development site area, to inform whether further archaeological mitigation is required.

**Moray Flood Risk Management** - No objection subject to a condition requiring a construction phase surface water management plan, to ensure construction activities do not increase the risk of flooding to surrounding properties. Following completion of the development, as-built drawings of SUDs features to be submitted to comply with the Flood Risk Management (Scotland) Act 2009.

**Scottish Environment Protection Agency** - No objection subject to conditions regarding the submission of SUDs scheme (to set out in detail how surface water drainage will be managed to ensure that the water environment is adequately protected from pollution), and a site specific construction method statement (CMS), (to incorporate detailed pollution prevention, site waste management and mitigation measures for all elements potentially capable of giving rise to pollution during all phases of construction), and if conditions not applied then treat response as an objection.

From the DA, the strategy is preliminary, based on site investigation for the adjacent site. It does not set out the finalised proposals which should be developed in accordance with the technical guidance contained in the SUDs Manual, C753. The layout of the site appears to be fairly constrained and whilst generally, the preference would be for finalised SUDs details to be submitted up-front and prior to the grant of planning permission, SEPA is prepared to accept a condition requiring the information to be submitted but if the requirements cannot be met within the current site layout then, SEPA should be consulted

again on the detailed SUDs proposals prior to granting planning permission. The surface water drainage scheme should take into consideration any contaminated land issues and the Council should satisfy itself that the proposed SUDs are appropriate for the site.

To minimise impacts of the development on the environment, the CMS should address all pollution prevention and environmental management issues and incorporate mitigation measures for all elements potentially capable of giving rise to pollution. Although there appears to be no indication that peat has been found on site at this stage, a submitted drawing highlights the 'potential for soft compressible soils such as peat'. This should be considered further and if necessary, options put forward for appropriate use/re-use.

In line with SPP 2014, it is recommended that consideration be given to provide a district heating network to meet heat demand for the proposed development, through on-site generation or co-location with a heat source. [NOTE: During pre-application consultation, SEPA did not identify/recommend requirements to provide a district heating system. There are no proposals to include such a facility within this site (and to do so would likely necessitate further alteration of the site layout), and there is no existing facility available nearby which could be utilised/accessed].

**Scottish Natural Heritage** - The PEA confirms that the site is used by few protected species and that buildings and trees/bushes should be checked for occupied bird nests before removal. The applicant should check for the presence of any breeding birds which may be affected by works and ensure that there is no disturbance to breeding birds.

The findings of a bat survey (September 2015) were inconclusive and as bats are a European Protected Species, the Council must consider the impact of the proposal upon bats prior to determining the application. SNH agree with the assessment in the Summer Bat Survey (May/June 2016) about the likely impacts and recommendations regarding mitigation and compensation. A licence will be required from SNH in addition to any grant of planning permission.

The application is supported by a site landscaping drawing (for the original proposal as submitted) identifying the locations/positions of avenue and public realm trees, amenity areas of grass and low shrub beds, etc. but without details (specifications) about planting species and mix of trees, shrubs, grassland or wildflowers, etc. The separate landscape scheme management plan refers to the maintenance regime for varying types of planting but it is not clear how the landscaping drawing and management plan relate to each other. A greater level of detail about landscaping is required. The application does not address issues raised by SNH about adopting a longer term vision for the site and developing an urban tree resource with an appropriate species mix and a range of species to secure greater bio-diversity value. [NOTE: The amended plans include a revised landscape scheme and a schedule with planting specifications].

**Aberdeenshire Council, Developer Obligations Unit (DOU)** - Following assessment, obligations identified in relation to primary and secondary education facilities based upon proposals being progressed by the Council to address current or forecasted capacity issues. No contributions are required for community halls or sports and recreation, there being no proposals for additional provision being progressed by the Council in Elgin. The proposal for a regional sports facility is a private project. As revised, the contributions include the value of a transport contribution sought to address the cumulative impact of the development upon the A941/Edgar Road junction.



Following re-assessment regarding viability and circumstances of the development site involving the District Valuer (including account of a similar process followed for the applicant's Linkwood Steading application 15/02032/APP), it is deemed reasonable to reduce the overall required contribution. The obligation can be undertaken as an up-front payment prior to issue of any planning consent or by entering into a Section 75 agreement. [NOTE: the applicant has agreed the level of contribution and a staged payment arrangement is to be adopted.]

**Scottish Water** - No response at time of report.

**Elgin Community Council** - No objection but concern raised about the capacity of the existing road network to accommodate this development. The TA addresses the impact of this development and committed development. It does not address the cumulative impact of reasonably adjacent developments currently in planning i.e. applications 15/02020/APP (the current application), 15/02032/APP (land at Linkwood Farm) and to a lesser extent, application 15/02056/APP (for 17 units at Duncanshill). Confirmation is requested that the cumulative impact of adjacent developments on the existing road network is addressed in this case. [NOTE: The TA and ATA do not include the cumulative impact of the identified "live" cases. The scope of the assessment considers only the specific impact of this current application upon the surrounding road network taking account of "committed development" as defined and agreed in consultation with the Transportation Manager].

The applicant should consider a more sensitive integration (not segregation) of social and affordable housing within the wider scheme. The segregation of social and affordable housing has a detrimental social impact on communities. There are areas of Elgin where this is happening. Elgin Community Council is happy to engage further on this matter.

## **OBJECTIONS-REPRESENTATIONS**

NOTE: Following the determination of this application, name and address details will be/have been removed (i.e. redacted) in accordance with the Data Protection Act (paragraph 3 of Minute, Planning & Regulatory Services Committee 16 September 2014).

a) 3 representations received (based upon the original proposals) from

- Mr A Sim, 7 Glen Elgin Drive New Elgin Elgin IV30 6JH
- Mr Graeme Henderson, 31 Glenlossie Road Thomshill Elgin IV30 8GY
- Mr J Smith, Paddockhaugh Birnie Elgin IV30 8 SU

The main points of the representations are:

- affecting natural environment
- loss of privacy (being overlooked)
- noise
- over-development of site
- traffic
- road access
- road safety

**Comment:** When submitting a representation online, it is feasible to select comments from a pre-defined list of comments. Sometimes the representation may clarify the selected comment, for example in relation to road access and safety but for others, where

no additional comment is given, it is not possible to give fullest consideration to the comments. As an example of the latter, it is not explained how, or in what way, the proposal affects the natural environment or represents an over-development of the site. Following assessment, the proposal is not considered to adversely affect the natural environment or result in an over-development of the site.

#### **Further development on R8 including number of units**

- R9 driving range land is now zoned for housing but how has further development on R8 come into the planning process?
- do these additional units correspond to totals agreed for R8 or is the developer exceeding the original limitations for R8?

**Comment:** The Elgin R9 site is designated in the adopted Moray Local Development Plan (MLDP) 2015 but it was not so designated in the former Moray Local Plan 2008 unlike the adjoining Duncansfield site (formerly Elgin R10, now Elgin R8). The current application includes an area of land, approx. 130 x 25, extending along the northern boundary of the site between the north-western corner of the existing Duncansfield development and Birnie Road. This strip of land is not part of the Elgin R9 site but part of the Elgin R8 designation. Along with an existing landscape strip it separates the driving range from the existing Glassgreen development to the north. 8 house plots, an access road extending between Birnie Road and the Duncansfield development and approx. 4 metre wide landscape strip on the north side of the access road are proposed within the Elgin R8 part of the site as part of this current application.

Within the previous local plan, this (Elgin R8) area was identified as part of an indicative reserved line for an Elgin by-pass (south option). The "reserved line" also extended along the northern boundary of the Duncansfield development area to the east and also westwards across Birnie Road and along the southern boundary of the Elgin R7, formerly Elgin R9 designation (now Duncanshill). At the time of granting permission for the existing Duncansfield and Duncanshill developments, the area of the indicative reserved line was precluded from development until formal adoption of any development plan or similar in which a "by-pass corridor" through R9 and R10 is no longer required (Condition 14 of application 10/02115/APP refers).

For the Elgin R7 and R8 designations and with removal of the former by-pass reservation, the MLDP 2015 identifies an indicative site capacity of 200 units (and the text allows for an additional 20 units beyond the 178 units already consented). To date and including the 30 units approved/built on Duncanshill and revisions within the Duncansfield development, permissions for 177 units have been granted on the Elgin R7 and R8 sites, including 19 units within the former by-pass corridor within Duncansfield. A further 8 units are proposed on the Elgin R8 site, as part of this current application (Plots 501-508), and to the west, a further 17 units are proposed within the former "corridor" of the Elgin R7 land to the south of the existing Duncanshill development (application 15/02056/APP). Without prejudice, if these current proposals are granted permission, the total number of units on Elgin R7 and R8 designation would be 202 dwellings thus exceeding the designation allowance by 2 or 4 units relative to the indicative capacity and information stated for Elgin R7 (and R8) designations.

Following consideration, including account of the requirements of Policy H1 (as applied to the whole development) the inclusion of the additional development is not considered to result in an over-development of the site and the additional development on the Elgin R8 part of the site is acceptable.

For the Elgin R9 part of the application site, the development exceeds the stated indicative site capacity of 120 houses by 8 units. However, taking account of the requirements of Policy H1 (as applied to the whole development) the inclusion of the additional development is not considered to result in an over-development of the site and the additional development on the Elgin R9 part of the site is also acceptable.

### **Previous drawings for R8**

- previous plans and drawings for R8 clearly show any future access road utilising all remaining area of land between the existing Glassgreen development and the boundary of R9 which is the driving range fence.
- the road is now proposed to run much closer to my property with houses also much closer than originally displayed on previous drawings,

**Comment:** If the reference to 'previous plans' is taken to refer to the originally approved site layout for the existing Duncansfield (application 10/02115/APP refers), those plans indicate a road extending approx. mid-way through the R8 part of the site (if the by-pass does not go ahead). When compared to the current road position, the latter is closer to the Glassgreen development than the alignment previously indicated.

For the current application, the position of the 6 metre wide road is as shown on the drawings. The position of this road is acceptable, and its location and use is not considered to adversely impact on the amenity of existing or proposed neighbouring property to the north and south of the road respectively. The existing landscape strip would be increased in depth (by approx. 4 metres) and being located on the north side of the road this would enhance the separation between the road and the rear boundary of Glassgreen properties.

### **Proposals for Birnie Road**

- whilst having no issues with the application, the proposal does not address issues related to Birnie Road hence object to the proposed access solution, specifically the reluctance to upgrade Birnie Road to a 7.3 metre wide carriageway.
- in terms of character, the section of Birnie Road between Elgin and the proposed southern access is one of the narrowest sections of this road, with high banks immediately bounding it. The road widens considerably to the south, therefore widening the road will have little impact on its 'character'.
- accepting that road width controls speeds, it does so by slowing (some) traffic which would otherwise be travelling at the national limit. However, as the proposal is to introduce a 30mph limit, the width of the road is no longer the controlling factor, removing any benefit to safety.
- the TA focusses on vehicle numbers but it does not mention the class of vehicle or distribution. A high proportion (10% +) of the traffic is HGV's travelling to Glenlossie/Mannochmore distillery. The road is not wide enough to comfortably pass an oncoming HGV at this point (and the condition of the verges is testament to this). This is exacerbated at night, or in poor weather conditions, as the road does not drain particularly well.
- the proposal also introduces the prospect of traffic turning right across the carriageway restricting, and potentially blocking, the path of oncoming vehicles.
- the surveys were conducted for peak time flows. This does not represent the 24hour nature of the largest industries that utilise Birnie Road.
- the site is remote from public transport and there is no off-road cycle route to any shops or the town centre which will inevitably lead to people using their car. Whilst issues with alternative transport are outwith the developer's control, forcing additional traffic onto a rural road is unacceptable where it is not unreasonable to upgrade it.

- given the zoning to the south it would be appropriate to upgrade the road in anticipation of this development.

**Comment:** Cycle/foot paths are proposed through the development site with connections to cycle/foot paths within the wider area as proposed, including those to/from Duncansfield. The road along the northern boundary is designed to be of sufficient width to accommodate public transport vehicles between Birnie Road and the A941 through the Duncansfield development. The TA/ATA regard the existing 6.0 metre wide Birnie Road carriageway to be more than suitable in capacity terms, and it assists in defining the character of the area, whilst also controlling vehicle speeds. After review of the TA/ATA, the Transportation Manager has agreed that widening of Birnie Road is required, and to ensure a safe and suitable access in road safety terms a condition is recommended requiring the improvement of Birnie Road, to include (as specified) the widening of the existing carriageway to a continuous 6 metre road width, plus cycle/foot path provision and crossing points, etc. Road improvements required for any development planned to the south of the application site would be determined as part of that development.

### **Impact of urbanisation, including loss of green spaces/golf driving range**

- it is a pity to see green spaces gradually being eroded by creeping urbanisation. It is understood that the area has been allocated for housing under the Moray Structure Plan but in a few years, Fogwatt will be part of Elgin.
- it is a shame that the golf driving range is going to disappear. It is a useful adjunct to Elgin Golf Course, helps keep people active, and it is in line with Scottish Government's aspiration for a fitter Scottish nation

**Comment:** The driving range site is designated for residential development in the MLDP 2015 not the Moray Structure Plan. Land to the south of Elgin R9 is planned for development in the longer-term (the Elgin LONG2 designation) and subject to a current application but the extent of that designation does not extend to Fogwatt. Whilst the existing driving range may 'disappear', planning permission has been granted for a new golf practice area (for Elgin Golf Club) to the south of Elgin LONG2 designation (application 15/02122/APP refers).

## **OBSERVATIONS**

Section 25 of the 1997 Act as amended required applications to be determined in accordance with the Development Plan i.e. the adopted Moray Local Development Plan 2015 (MLDP) unless material considerations indicate otherwise. The main issues are considered below.

For this major application, the Pre-application Consultation report (PAC) indicates the extent of the applicant's engagement with the local community in accordance with the Proposal of Application Notice (PAN) (15/01260/PAN). According to the PAC, the consultation exhibition was well attended, attracting over 25 people with 6 feedback forms returned. Overall, the PAC indicates that the tone of the event was positive and aside from expressions of interest to purchase homes, a small number of issues were raised about layout, housing mix and start date. The PAC considers these issues have been addressed and can be progressed as part of the application.

In terms of start date, the PAC notes that legal requirements must first be met in relation to the existing use of the driving range before the development starts. As regards layout, the PAC indicates that favourable comments were received about the site being well-planned with appropriate links to other developments, the provision of open space between Glassgreen and the development, and the cycle path link and houses fronting onto the northern link to Birnie Road. However, there was concern that this arrangement should not be removed with a change to 'backs' of houses fronting onto existing houses and the cycle path, and a preference for more cul-de-sacs to reduce the potential for through traffic. The PAC notes that it is not possible to make any (further) changes to the layout including the separation between the proposals and Glassgreen, and that the Council discourages the introduction of cul-de-sacs, a form of layout which is not promoted by planning policy or supplementary guidance.

Issues about housing mix related to the provision of affordable housing, the need for more bungalows in the layout and too few apartments being available to first-time buyers as opposed to flats for rent. The PAC notes that affordable housing is to be provided in discussion with the Council, and adds that the applicant has already provided a large number of affordable homes in Elgin, and any affordable provision may be on- or off- site depending on the outcome of discussions. Similarly, the PAC notes that the applicant has provided a number of flats for purchase across its developments in Elgin and bungalows are provided at Duncanshill. The PAC indicates that the commercial appraisals as undertaken for this development are based on flats for rental and they do not allow for bungalows to be viable on this site.

Neither the PAC nor the Planning Statement (PS) specifically respond to the Committee's view expressed on the PAN, or how it has been taken into account. The PS repeats the Committee's comment about the pressure upon school rolls and the PAC indicates that the impact will be considered as part of the developer contribution process.

The PS considers the proposal against development plan policy and relevant material considerations. In terms of the former, it does not consider all of the policies identified in this report (Appendix 1), or those advised in the pre-application response, 15/01232/PE. The PS notes that the site is allocated for housing in the development plan, thereby establishing the principle of residential development, and Scottish Planning Policy (SPP), as a material consideration, promotes the delivery of identified housing land supply sites,

enabling a range of attractive, well-designed and energy efficient new homes. Having been developed with Designing Streets and the Council's supplementary planning guidance in mind, the PS considers that the proposal aims to fulfil these requirements. The PS concludes that the proposal accords with development plan policy and material considerations and requests that the application be approved as it will deliver much-needed new housing for the area.

According to the PS, the proposal aims to create a modern high quality development intended to reflect the surrounding area and complement the applicant's adjoining Duncansfield development. It considers that the proposal has adopted principles of good design and layout with a grid-like street pattern affording good levels of connectivity, permeability and accessibility whilst encouraging a shift towards active travel and reducing the dominance of the car. A hierarchical pattern of street types is used to inform the layout with different scales, designs and positions of building together with landscaping to aid legibility, surveillance and provide an interesting street scene whilst avoiding cars and parking to over-dominate the street scene. Furthermore, appropriate levels of open space and landscaping are included and the main open space area is centrally located and conjoined with a similar feature in the Duncansfield development. The PS considers that these features together with a high quality design of using contemporary external materials and finishes and sensitive boundary treatments (hedgerows, walls and low fences) provide a modern aesthetic character and aid place-making.

The PS notes that the approx. 10metre wide planted strip along Birnie Road is consistent with the established set back of the existing Glassgreen development to the north and at that depth it will provide a sufficient buffer without compromising the developable area of the site. The PS also refers to discussions with local residents who were not in favour of a vehicle connection extending Glen Elgin Drive (within the Glassgreen development) southwards into the site. This arrangement has not been pursued given the proximity of any such access to Birnie Road and additional crossing requirements over the existing landscape/pedestrian and cycle corridor which separates these sites.

The Design & Access Statement (DAS) (November 2015) outlines principles and concepts for the development taking into account the existing site characteristics and the historic form of development, with a design development indicating 4 previous iterations (sketch proposals) used to inform the site layout and a site masterplan highlighting significant landscaping areas both within the proposed site and in the adjoining Duncansfield development. The site analysis examines buildings, movement and green space issues together with consideration of affordable and accessible housing and site layout and external materials etc. The DAS is largely photograph, sketch and plan/drawing based with limited or, in some cases, no supporting text to explain the design approach adopted, for example in relation to the Public Access Plan.

### **Changes made to application since original submission.**

The DAS and PS (and most other documents) are based upon the original submission as lodged in November 2015, although the sketch layouts within the DAS differ also from the actual submitted layout. Neither document has been up-dated to reflect the subsequent changes made to the proposal whether in terms of the number of units (increased from 132 to 134 units); housing mix (to include an increase in the number of accessible houses and inclusion of 37 affordable houses including 4 units transferred from elsewhere onto the site (application 15/02052/APP refers)); inclusion of new house types (Crossley and Ardmore); and amended site layout details (to address road layout/width and safety matters and in response to consultation responses including two Quality Audit (QA)

appraisals which identified mitigation measures required to address place-making principles in particular requirements to improve on housing mix, parking and landscaping arrangements within the site).

In early May 2016, an ATA was submitted to respond to issues raised by the Transportation Manager including identification of committed development traffic to be included in the analysis and to provide an up-dated analysis of the impact of the development upon a number of junctions in the wider area.

In July 2016, a revised Accessible Housing Compliance Statement was submitted, to reflect the introduction of a new (accessible) house type (Crossley) (4 units) in addition to the previously identified use of the ground floor Auldearn apartments (6 units). Also at this stage, and after several interim revised layouts submitted informally for further discussion (with one revision subject to a QA in February 2016), amended details were formally submitted to incorporate all the various revisions made to the development.

Overall, and except for the introduction of the affordable housing (reducing the number of private houses within the development), the majority of other changes made to the proposal are somewhat limited in scale and extent but when combined, these have been influential in seeking to improve upon the quality of the development in place-making terms. The majority of changes to the housing mix, to incorporate accessible and affordable houses, occur either within the central part of the site or within the southern part of the site but without substantive revision of the overall site layout. The resultant changes have not been considered to warrant further notification and advertisement procedures, although further consultation has occurred with relevant consultees. As a result, the application is being determined on the basis of the latest amended design and site layout details (as submitted in July 2016), including site layout drawing EL45\_SL\_PL\_01 Rev D.

At the time of receipt of the (original) submission, the proposal was regarded as a departure from the development plan because not all of the requirements of the Elgin R9 and R8 designations had been included, no affordable housing was included (Policy H8) and based upon an initial appraisal, the submitted details were considered unlikely to satisfy place-making principles (Policy PP3, IMP1 and E5). However, after detailed consideration, the amended details can be given support as an acceptable departure from the development plan (see below).

Furthermore, no hearing is recommended/required because the representations do not specifically refer to the basis upon which the proposal departs from the development plan.

### **Development on, and departures from, Elgin R9 and Elgin R8 designations (Elgin R9, Elgin R8, H1, H8, E5 and IMP1)**

From the MLDP 2015, the site incorporates land designated for housing. The majority of the site forms the Elgin R9 Driving Range designation with the remainder forming part of the Elgin R8 Glassgreen designation i.e. the area with 8 houses (Plots 501-508), an access road and the approx. 4 metre wide landscape area located along the northern boundary of the site.

For designated sites, Policy H1 requires information to be provided for the comprehensive layout and development of the site, to enable consideration of servicing, infrastructure and landscape arrangements, assessment of contributions or affordable housing needs etc. In addition, proposals must comply with the site development requirements and Policy PP3

place-making principles. In this case, a comprehensive layout is provided, allowing the required consideration and assessment. Contrary to the PS, and for reasons indicated below, this proposal does not wholly comply with planning policy.

The Elgin R9 site has an indicative capacity of 120 units. Excluding 8 units located within Elgin R8, 126 units are proposed within Elgin R9 but after considering site layout matters and site density (for the development as a whole), and even with the additional number of units included, the proposal does not result in an unacceptable over-development of the site. As policy H1 indicates, the stated site capacity is indicative, requiring assessment of proposals in terms of their site characteristics and conformity with policy PP3 and IMP1 and H8. Following consideration and subject to conditions where recommended, the amended proposals would comply with a number of the identified planning policies (see below and Appendix 1) but they require support as an acceptable departure from the development plan for reason(s) considered below.

The majority of the site-specific development requirements for Elgin R9 are met, including requirements to provide foot and cycle path routes, internal connections, links east to west (including connections to/from Duncansfield), and active travel links. However, the requirement for a public transport route through Elgin R9 is not included but in this case a departure can be supported because an access route capable of accommodating public transport vehicles is included with the application site i.e. the 6 metre wide access route extending between Birnie Road and Duncansfield along the northern boundary which is located within the Elgin R8 designation.

Landscaping within and around the site is also provided but here, a departure from the Elgin R9 designation occurs because the landscape area along the western (Birnie Road) site frontage is not to the required 20 metre depth but instead, it is only approx. 8-10 metres deep for much of its length, and to a depth consistent with that provided/established along the western edge of the existing Glassgreen development to the north. Furthermore, as landscape areas contribute to open space requirements, an additional departure occurs in relation to Policy E5 where, for a development of this size, a minimum 20% open space is required but in this case only 15% open space is provided.

Notwithstanding the less extensive depth of provision in landscaping fronting Birnie Road and the shortfall in open space requirement within the development, the proposal is regarded as compliant with Policy PP3 place-making principles with no mitigation identified as being required to address these matters (see below). Earlier iterations of the site layout (see sketch proposals within the DAS) suggest similar levels of landscaping and open space provision with that currently shown. On this basis, the identified departures can be supported.

For Elgin R9, and as required, a TA was submitted and this was later supplemented by an ATA. Both assess the impact of the development on the capacity of various junctions within the surrounding road network, in particular the TSP junctions listed in the Elgin R9 designation. However, the proposal departs from the Elgin R9 designation because no Roads Drainage Assessment has been provided. Whilst this is a matter that might otherwise be expected to be addressed during consideration of any separate application for Roads Construction Consent, this departure can be supported/addressed as part of the conditions recommended by the Transportation Manager requiring details about the disposal and management of surface water roads drainage.



As noted, part of the site includes land within the Elgin R8 residential designation. This land, located along the northern boundary of the site, is the residual/remaining part of an earlier development approved at Duncansfield/Duncanshill (application 10/02115/APP) which is now available for development as a result of it no longer being identified/reserved as an indicative line or corridor for an Elgin by-pass.

For the Elgin R8 (and R7) the MLDP 2015 identifies an indicative site capacity of 200 units (and the text of the designation allows for an additional 20 units beyond the 178 units already consented). To date, permissions for 177 units have been granted on the Elgin R7 and R8 sites, including 19 units within the former by-pass corridor within Duncansfield. A further 8 units are proposed on the Elgin R8 site as part of this current application (Plots 501-508) and to the west, a further 17 units are proposed within the former "corridor" of the Elgin R7 land to the south of the existing Duncanshill development (application 15/02056/APP). Without prejudice, if these current proposals are granted permission, the total number of units on Elgin R7 and R8 designation would be 202 dwellings thus exceeding the designation allowance by 2 or 4 units relative to the indicative capacity and information stated for Elgin R7 (and R8) designations.

As required by Policy H1 and after considering site layout matters and site density (for the development as a whole), and even with the additional number of units included, the proposal would not result in an unacceptable over-development of the site. As policy H1 indicates, the stated site capacity is indicative and the proposal is not regarded as a departure after assessment of proposal (for the development as a whole) in terms of site characteristics and its conformity with other planning policies. The submitted TA/ATA, including its assessment of various TSP junctions, would satisfy the 'up-date' TA required by the Elgin R7 and R8 designation.

#### **Affordable Housing (H8, PP3, IMP1)**

Policy H8 and associated supplementary guidance require affordable housing to be provided on-site within the development, in this case 33 units although here, 37 affordable housing units are proposed after the Housing Strategy & Development Manager has agreed that 4 affordable houses required as part of application 15/02052/APP can be transferred to this site.

Following consultation, the Housing Strategy & Development Manager has confirmed that the proposed 37 affordable housing units now included in the amended proposal would meet the requirements of policy H8. In addition, the proposed mix of accommodation accords with the previously advised/agreed mix of affordable housing identified as required for this site. The proposed house and flat designs are acceptable and although differing in appearance from the private houses, with, some having a larger footprint than some private house types, they add variety in terms of style and scale of accommodation and are linked through uniformity of material finishes. No details about the arrangements for the delivery of this accommodation are included, hence a condition is recommended to address this.

The proposed mix of affordable housing includes 6 single-storey properties, the only properties of that scale provided within the development. From the earlier QAs (see below) the absence of single-storey properties within the development was not considered unacceptable in Policy PP3 place-making terms and from the applicant's PAC, the commercial appraisals as undertaken for this development does not allow for bungalows to be viable for mainstream delivery.

During discussions and reflecting the terms of the adjoining Duncansfield permission, the applicant has asked that any condition should be flexible, to provide for the provision of affordable housing either on this site or allow for its transfer off-site to an alternative location. The latter would require to be agreed with the Housing Strategy & Development Manager.

Mindful of place-making aspirations to promote sustainable and successful communities and that a lack of tenure integration can undermine this, the Housing Strategy & Development Manager has expressed concern that if a wholesale transfer were agreed for all of the affordable accommodation now included in this application, it would mean no tenure integration i.e. approx. 340 houses on the Elgin R7, R8 and R9 sites with no affordable housing included thereon. Whilst expecting the affordable housing contribution to be provided on the development site, the Housing Strategy & Development Manager has previously indicated a willingness to consider a partial off-set of the affordable housing requirement i.e. the potential provision of affordable housing at Stonecross Hill (application 16/01074/APP) as an off-site contribution towards the requirement for the current application, hence the condition as recommended.

The affordable housing accommodation is located in the southern half of the site, including housing located along the southern boundary of the site. This accommodation is surrounded by, and accessed through, private housing areas and in terms of connectivity and siting; the accommodation is perhaps furthest away from access to public transport and other existing facilities. Notwithstanding consultation responses and views expressed previously about the need to integrate affordable housing accommodation within developments, the Housing Strategy & Development Manager has not objected to the proposal whether in terms of it not achieving objectives for integration, its location within the site or its connectivity to the remainder of the development and the wider area.

The inclusion of affordable housing within the amended plans represents an improvement in place-making terms, where previously the original submission included no affordable accommodation. The Housing Strategy & Development Manager has not objected to the site layout arrangements. Overall, the affordable housing proposals are considered to be compliant with place-making principles.

### **Accessible Housing (H9)**

Policy H9 and associated supplementary planning guidance require accessible housing to be provided within the development. In this case, after taking account of affordable housing requirements (37 dwellings), 10% of the remaining 97 (private) houses should be provided as accessible housing: in this case 10 units are required.

From the amended proposals, 10 accessible houses are proposed i.e. the 4 Crossley houses (plots 82, 83, 90 and 107) and the 6 ground floor apartments of the Auldearn flats (Plots 53/54-63/64). As revised, the Accessible Housing Compliance Statement indicates that all ten units are designed in accordance with the Council's relevant supplementary guidance and "Housing for Varying Needs" guidance, provide barrier-free accessible housing suitable for people with physical disability or mobility impairment, and are fully wheelchair accessible. The 10 units are 'accessible' in both external and internal space terms, including accommodation located on principal roads within the site, the inclusion of barrier-free entrance doors and an internal layout that is capable of adaptation to meet the needs of occupants. The internal layout of the Crossley house is capable of adaptation to allow installation of a wheelchair lift to enable access between the ground and upper floor levels.

Following consultation, the Housing Strategy & Development Manager has confirmed that the revised compliance statement and the types, number, location, design and layout of the identified accessible housing accommodation as identified is acceptable. As such, the amended proposals are considered to satisfy relevant policy and guidance subject to the identified accommodation remaining capable of adaptation for accessible housing requirements. Both house types as identified have already been accepted/approved as 'accessible', for example within the application for residential development at Linkwood Farm (application 15/02032/APP refers).

**Place-making: Design and Site Layout (PP3, PP2, H8, H9, E4, E5, IMP1)**

Both prior to and during formal consideration of the application, discussions with the applicant have sought to promote an acceptable form of development in terms of good design and place-making principles as advocated by policy PP3 and the SPG. As a material consideration, a quality audit (QA) process, covering both design and site layout issues, has been agreed to assess the conformity of residential development with Policy PP3 place-making and Urban Design SPG principles (paragraph 5 of Minute, Planning & Regulatory Services Committee 1 December 2015 refers).

The QA approach examines 12 criteria considered to contribute to place-making principles i.e. connections, public transport, safer environment, car parking, legibility/street hierarchy, character and identity, housing mix, access to facilities and amenities, natural features, open space, biodiversity, and landscaping. The QA adopts a "traffic light" approach to assess the criteria where

- "red" means 'significant place-making issues where mitigation is required and if not addressed refusal would be recommended';
- "amber" means 'design principles within PP3 and the Urban Design Guide have been met, however further quality improvements could be made'; and
- "green" means 'PP3 principles and Urban Design Supplementary Guidance are fully met'.

QAs were undertaken for the original proposal (November 2015) and for some revised details (February 2016) but not for the amended (July 2016) proposals. As noted, the amended proposals include some limited and small-scale layout changes made to the previous site layout details (for example adjustment of street widths or areas of open space, etc.) which do not necessarily change or detract from the conclusions reached in the earlier QAs. Apart from further (detailed) specification of landscaping arrangements, the only larger-scale change included in the amended plans is a revised housing mix which now includes affordable housing. Whilst adding to the mix and variety of house types available within the development, this revision is largely accommodated without substantive change in the overall site layout/street pattern for the development, thereby altering some but not all of the conclusions of the earlier (revised) QA.

Notwithstanding any differences when comparing the actual amended layout details as now submitted with those considered at the pre-application stage (or included in the DAS), the amended proposals appear as a quality improvement over the original submission. From the summary table below and after comparison of the "traffic light" assessment of place-making criteria examined in each QA, the earlier revised proposals were an improvement over the original submission and adopted some but not all of the previously suggested mitigations, including attention to landscaping and car parking arrangement to enhance the quality of the development. However, whilst compliant with Policy PP3 place-making principles in a number of respects, the revised details remained non-

compliant and unacceptable (red) in housing mix terms owing to the lack of affordable housing provision.

	Original QA (January 2016) criteria	Revised QA (February 2016) criteria
Red	2 (housing mix, parking)	1 (housing mix)
Amber	9	7
Green	1	4

In terms of place-making principles, the amended proposals do not substantively alter the earlier revised QA other than addressing the housing mix criterion. If re-assessed, with affordable housing included, this criterion would become "amber". In the original QA, the car parking arrangements were unacceptable (red) but in both the revised and amended proposals, the otherwise unsatisfactory physical and visual dominance of car parking to the front of properties has been addressed, where possible by both relocation of parking spaces to the side of property and/or introduction of planting to "soften" the impact of parking on the street scene. On this basis and in the absence of any "red" criterion, the amended proposals would represent a quality improvement over the original proposals and be regarded as compliant with Policy PP3 and associated supplementary guidance.

In terms of place-making design principles, a mix of private and affordable house designs are proposed, the latter accord with a previously identified mix of accommodation required to meet housing needs. Except for the six single-storey (affordable) houses, all other new build house designs are approx. 1½ or 2-storey and comparable in terms of their scale. The introduction of affordable housing adds to the mix of accommodation available within the development. Individual house designs may vary within and between the private and affordable houses, adding variety and interest to the development, but all are linked by uniformity in external material finishes and colours.

The private house designs, including accessible house types, are acceptable and are designs already approved (for example at Linkwood Farm (15/02032/APP)) or already built on the adjoining Duncansfield development. These designs are located mainly in the northern half of the site but also extend along the eastern and western sides of the site.

The affordable house designs are also acceptable (and have already been approved at Linkwood Farm). This accommodation is located in the southern part of the site. As noted, the Housing Strategy & Development Manager has not objected to the proposals in terms of their location and/or integration within the development as a whole, or in terms of place-making criteria. The QAs did not regard the lack of single-storey accommodation in the original and revised proposals as being unacceptable. The amended proposals improve on this situation albeit in a limited way with the introduction of six single-storey (affordable) houses. For commercial viability purposes, no single-storey (private) accommodation is provided within the site.

In terms of 'character and identity' (amber) the amended proposal is regarded as compliant with Policy PP3. Being largely a sloping grassed area largely devoid of existing structures, the character of the site is somewhat "led" by the adjoining housing developments to the north and east, in particular the adoption of house designs already approved at Duncansfield. These are then developed through attention to site layout details including buildings with principal elevations facing towards Birnie Road, to provide an attractive western frontage to the site and internally, buildings have public fronts and private back areas, and some are designed to 'turn the corner' in key locations.

Compared with the original layout, the revised/amended proposals have also sought to reduce the visual dominance of the cars parked to the front of the property.

In terms of place-making movement principles, this 134 dwelling development is served internally by a grid-like street pattern and it does not include any cul-de-sacs. In terms of 'legibility/street hierarchy' (amber), the development has a well-defined and permeable street pattern which aids the ability to navigate around the site and includes streets of different width to influence (reduce) vehicle speeds along with specimen trees planted along principal routes. Within the revised/proposed proposals, not all of the earlier suggestions made to enhance legibility and provide a 'safe environment', including use of varying surfacing materials and colours to further reduce vehicle speeds, add variety and differentiation within the street scene, and generally promote and enhance a safe and pedestrian friendly environment, have not always been adopted except for attention given to reduce frontage parking and relocate it to the side of property. That said, the (amended) proposals are considered compliant in terms of this place-making principle.

Generally, in terms of 'connections' (amber), the site is well-connected internally in terms of road, foot and cycle path links. Although the amended proposals do not address QA comments that internal cycle and pedestrian connections could be enhanced, particularly on north-south routes, the revised QA advised that no further mitigation is required for compliance with Policy PP3 with no linkage connections, vehicle or pedestrian/cycle, between the development and Glen Elgin Drive to the north. The site is also well connected to the existing development, including two accesses to/from Birnie Road and three accesses to/from Duncansfield to the east, and three "future connections" (two vehicular and one pedestrian/cycle) to access land to the south of the site.

The proposed northern access through the site between Birnie Road and Duncansfield is of sufficient width to act as a public corridor and from the revised QA, the proposal was considered as compliant in 'public transport' terms notwithstanding that no bus stops are included within the site layout and/or that in terms of accessibility, property at the southern end of the development (including affordable housing) would be at some distance from any existing bus stop (the nearest being to the north on Birnie Road) and/or any potential public transport service provided between Birnie Road and the A941 road routed through Duncansfield.

In terms of 'access to facilities and amenities' (green), the revised (and amended) proposals are regarded as fully compliant in place-making terms given the future access arrangements which would allow access to future facilities as the Elgin LONG2 site develops, and also in terms of the ease of access from the site to the existing play area located within Duncansfield.

The amended proposals maintain the revised QA assessment regarding 'parking' (amber) and improve upon the original QA assessment wherein the parking arrangements were unacceptable (red). As revised/amended, the proposals have sought to reduce the visual and physical dominance of parking upon the street scene and improve upon the quality and distinctiveness of the site, for example by relocating spaces to the side or to the rear of property (the latter in relation to property fronting Birnie Road), and the introduction of planting (trees and hedges) to break-up, screen and/or reduce the visual dominance of off-street parking.

In terms of place-making open space principles, the revised QA considered the development to be fully compliant in terms of the 'open space' criterion. The amended

proposals do not necessarily alter that appraisal (although some further layout revisions required by the Transportation Manager are likely to make small-scale alterations to the level of open space/green provision). In addition, they retain the large open space area within the centre of the development which acts as a focal point within the development and is linked to a similar space (with play area) within the Duncansfield development. In addition, the relocation of parking within house plots around this central space has helped to improve natural surveillance of this space.

As noted, the compliance of 'open space', in terms of place-making considerations, provides a basis to support the development as a departure from the Elgin R9 designation and Policy E5, in terms of reduced landscape width along Birnie Road and the 15% rather than 20% extent of open space provided across the site. Here, neither QAs as undertaken require further mitigation to redress the reduced level of open space/landscape provision within the development.

The amended proposals do not alter the earlier conclusions where, in terms of 'natural features' and 'bio-diversity', the proposals are fully compliant (green) with Policy PP3 principles. In terms of the former, the QAs noted that despite any notable landscape features, there were opportunities for vistas along the north/south primary routes which could relate the development to the surrounding landscape to the south, and in addition, the proposed hedges and tree planting species have been introduced to 'soften' the street scene and promote/enhance bio-diversity.

Although considered complaint with place-making principles, the amended proposals represent an improvement in 'landscaping', in terms of both the quantity of planting, with additional landscaping included, and also the quality of planting, with further information giving fuller specifications for all planting. As such, the amended details now inform the interpretation of the maintenance schedule submitted with the application, thereby addressing a concern highlighted by SNH.

After consideration, the proposed planting arrangements are acceptable, including their contribution to bio-diversity. The planting specifications include both feature and standard specimen tree planting, for example within the central open space area linking through to a similar area within Duncansfield to the east, and along the landscaped Birnie Road frontage. Trees, shrubs and hedging are also proposed within smaller open space areas within the development and help to define plot frontages along with timber fences to screen, enclose and reduce the dominance and impact of car parking, and generally "soften" the street scape and appearance of the development. In these terms, the amended proposal contribute towards enhancing the character, appearance and quality of the development

In summary, the amended design and site layout details improve upon the original submission. Generally, the amended proposals have incorporated some but not all of the mitigation improvements highlighted in the QAs, and maintain and/or sometimes improve upon the proposal's compliance with place-making principles. In not being considered to adversely detract from the character, appearance and amenity of the development and the surrounding area, the amended proposal is acceptable and satisfies relevant planning policy and supplementary guidance including Policy PP3, H1 and IMP1.

Additionally, in terms of the amended design and site layout arrangements and after taking into account the relationship between property including orientation, scale, siting, difference in levels, intervening distance and boundary treatment, etc. no unacceptable or

significant adverse amenity effects including privacy, overlooking, sun/day lighting, etc. are considered to occur between the proposed new build property within the development itself and/or between it and the existing Duncansfield and Glassgreen developments to the east and north. In the absence of any identified unacceptable adverse amenity effects upon the surrounding environment, the proposals are considered to comply with policy H1 and IMP1.

The proposal is also considered to be compliant with Policy PP2. The submitted 'Sustainability Checklist' considers that, in terms of site layout and design including renewables, a number of passive low energy design measures are incorporated. These are regarded as being of potentially greater value and are more user-friendly than technologically driven techniques. Together with a number of resource efficiencies, the proposal will adopt sustainable surface water management and flooding principles, and in terms of climate change adaptation, the submitted 'checklist' confirms that all house types are designed to offer adaptable/flexible living spaces within the site and to create an inclusive environment and community spirit catering for the needs of all people whilst also being compliant with accessible and Building Standards requirements.

**Transportation (Elgin R9, Elgin R8, TSPs including TSP28 and TSP31, T2, T5, PP3, IMP1, IMP2, IMP3)**

Policy T2 includes requirements for development to provide a safe and suitable access, maximise pedestrian, cycle and public transport connections and routes, and identify improvements to mitigate the impact of a development on existing transportation infrastructure, including potential improvements identified as "TSPs" on settlement maps. Policy T5 requires parking to be provided in accordance with the Council's approved standards. Policy T7 seeks to promote and enhance walking and cycling connections and proposals must not adversely affect core paths. Policy IMP1 requires transport infrastructure to be provided at a level appropriate to the development. In addition, a TA is required where a significant increase in trips generated by a development is likely to occur (Policy IMP2) and where proposals have a measurable adverse or negative impact on existing infrastructure, a developer contribution can be sought (Policy IMP3).

Transportation arrangements are important in place-making (movement) considerations. Subject to conditions as recommended, the proposed road, foot and cycle arrangements are acceptable and satisfy planning policy. In addition, they contribute to defining the street hierarchy and connectivity, both within the site and to the wider area, including access to facilities and public transport. Although the amended proposals have addressed some but not all issues previously identified by the Transportation Manager, further revisions to the layout are required (by condition) to address road safety considerations, some of which may result in small-scale and localised adjustments in the level of green/open space provision within the layout of the development.

The amended details do not fundamentally alter the footpath and cycle connections included in the original layout except to include an additional section of foot/cycle path along the southern side of Plot 126, located at the entrance/exit to the development off Birnie Road. This detail is not included in the Public Access Plan included within the DAS. The Moray Access Manager has recommended a condition to address the lack of supporting text within the DAS to explain the rationale for all foot/cycle connections and time-scales for their delivery

Reflecting Policy IMP2 and IMP3, the TA/ATA consider the impact of the development on the two site access junctions serving the development i.e. the (primary) 3-arm site access

priority junction onto Birnie Road (TSP28) and the (secondary) 3-arm site access priority junction onto Birnie Road which provides a through route to Duncansfield and the A941, and the other junctions identified in the Elgin R9 designation. In terms of the likely impact of trips associated with this development, in addition to other existing traffic and committed developments, the TA/ATA concludes that for all of the junctions examined, including TSP28 and TSP31, the traffic generated by this development will have a negligible impact upon the operation of the local road network, background traffic levels are such that the existing junctions operate well below capacity with no material detrimental impact(s) identified and no off-site improvements are required/proposed to mitigate the impact of the development.

According to the TA/ATA, the proposals will maintain Birnie Road at a 6 metre width and it will then tie it into the 7.3 metre wide road to the north, to ensure the road's existing function is maintained. The 6 metre carriageway width is considered by the TA/ATA to be more suitable in capacity terms and it assists in determining the character of the area and in controlling speeds. As any change in its function could have implications for future development to the south of Elgin, the TA/ATA considers that the proposed vehicle access arrangements will provide continuity with the road to the north and provide a smooth transition to the existing road to the south of the site, thereby ensuring the functionality of the road network is maintained. Although originally suggesting the widening of Birnie Road to 7.3 metres along the site frontage, the Transportation Manager has accepted/recommended that a continuous 6 metre wide carriageway be provided on Birnie Road.

The Transportation Manager does not agree with the methodology used in the TA/ATA junction analysis including calibration of the modelling undertaken to determine queue lengths at the A941 Edgar Road/New Elgin Road roundabout junction (TSP31). Whilst not regarded as representative of actual observations or likely predicted future observed queue lengths, the Transportation Manager considers the TA/ATA to demonstrate that the proposal will have a negative impact on the operation and performance of this junction in terms of delays and queue lengths. To address the impact of traffic from this development through the TSP31 junction, a proportionate financial contribution was identified as part of the assessment for "developer obligations" (Policy IMP3, see below) but, after negotiation and consideration of viability issues, the agreed level of contribution will be used to address primary education rather than transport-related impacts (see below).

In light of the above matters and subject to conditions as recommended, the transportation aspects of the development are considered acceptable and the proposal is regarded as satisfying relevant planning policy and guidance.

### **Water, Drainage and Flooding (EP10, EP5, EP7, EP6, IMP1)**

**Water Supply:** The proposal will use a public mains water supply. In the absence of any formal response from Scottish Water, further separate discussion will be required with Scottish Water about the capacity available within the existing public supply network, the arrangements for connection to the public system, and any works required to up-grade the existing water mains infrastructure.

**Foul (waste water) drainage:** Policy EP10 requires a public connection for development located within settlements. In the absence of any formal response from Scottish Water, further separate discussion will be required with Scottish Water about capacity available within the existing public drainage network, the arrangements for a connection to the



public system, and any works required to up-grade the existing mains drainage infrastructure.

The DA indicates that discussions with Scottish Water are underway regarding the proposed public connection. The foul drainage system will have a gravity flow from all parts of the site to two connection points into the existing drainage infrastructure for Duncansfield. The DA advises that the existing system has yet to be adopted by Scottish Water but it is expected that the system, and this proposed extension to it, will be adopted following completion of the development. In principle, the proposed (foul) drainage arrangements are acceptable and would satisfy policy EP10.

**Surface Water Drainage:** Policy EP5 requires surface water drainage to be dealt with in a sustainable manner using SUDs with a DA required for developments of 10 or more houses, together with consideration to be given to the impact of construction phase run-off.

The DA confirms that the development will be served by separate foul and surface water drainage systems, the latter to incorporate SUDs and be designed in accordance with sustainable development principles, thereby reflecting the requirements of policy EP5.

In the absence of any on-site surface water (and foul) drainage infrastructure, the DA outlines a strategy to sustainably manage independent systems for the disposal of roof and road drainage. Roof and driveway/parking area drainage run-off will disperse/ discharge into the ground using privately maintained soakaways within each plot. Surface water from roads and footways will drain to permeable systems (for example, infiltrations trenches or swales) located adjacent to footpaths or within road verges. Based upon preliminary drainage calculations and with percolation to the ground, the system will be designed to fully absorb and disperse of all rainfall entering the site with no outfall required and no adverse effect on any nearby watercourse.

No detailed design of the surface water drainage arrangements is included within the application: the DA acknowledges that no site investigation has been undertaken due to the current use of the site as a driving range but it confirms that full investigation and a full drainage design will be provided prior to the development commencing. The drainage strategy is based on the assumption that ground conditions for the site will be similar to those found on the Duncansfield site where infiltration results indicate a relatively permeable soil. The Sustainability Statement (for Policy PP2 purposes) also indicates that the surface water drainage system, including SUDs infrastructure, will mirror the drainage strategy and infrastructure as used on Duncansfield.

Following consultation, Moray Flood Risk Management (MFRM) has not objected to the development whether on the basis of insufficient information currently available, or that the site would not be able to accommodate the surface water arrangements, or the intention to prepare a full design at a later date. However, they require a construction surface water management plan to be prepared.

SEPA observe that the site layout is constrained in terms of the ability of the site to accommodate the proposed SUDs details and whilst they would normally expect a finalised SUDs design to be included as part of any development application, they recommend a condition requiring the details of the surface water drainage arrangements to be submitted/approved prior to commencement of the development. (A similar condition was applied for the Duncanshill/Duncansfield development). The applicant has

confirmed that the surface water arrangements can be provided/accommodated within the site but without further alteration of the (amended) site layout.

In principle, the arrangements for the disposal of surface water are acceptable and subject to conditions as recommended, the proposals would comply with policy EP5. In addition, the Transportation Manager has recommended a condition about the management and maintenance of surface water roads drainage: as previously noted this would address the current departure from the Elgin R9 designation in terms of the absence of a submitted Roads Drainage Assessment.

**Flooding:** Policy EP7 requires that development should demonstrate that it will not exacerbate the risk of flooding whether to the development itself, or to elsewhere.

Neither SEPA nor MRFM has objected to the development in terms of any unacceptable risk of flooding. The DA confirms that there are no watercourses on or near the site, and with no records of any watercourses affecting the site or affected by surface water run-off from the site, the proposal would satisfy Policy EP6. In addition, the site lies outwith any indicative flood area (based upon SEPA's indicative flood maps) and there are no known records of flooding in the vicinity of the site.

The DA indicates that a small part of the site is potentially at risk of surface water flooding in extreme events but the proposed detailed drainage scheme design, once designed, will address and mitigate any such risk of surface water flooding. The DA indicates that the scheme will be designed to ensure any 1 in 200-year storm event and overland flows will be managed within the development without causing flooding to any housing (proposed or existing) or other infrastructure.

Overall, the site/development is not likely to be at significant risk of flooding nor exacerbate the risk of flooding to elsewhere. Subject to conditions as recommended (regarding surface water drainage), the proposal is considered to be acceptable and satisfy relevant planning policy and guidance.

### **Impact upon cultural heritage (BE1, IMP1)**

Policies BE1 requires development not to adversely affect local and national archaeological sites, including their setting.

The site is not subject to any site-specific cultural heritage designation other than archaeological interests. The existing cottages are not statutory listed buildings however, Aberdeenshire Archaeology Services has recommended a condition requiring a building survey to be undertaken to record the appearance and condition of these cottages which will be demolished to make way for this development.

Based upon archaeological investigations near the site, and to mitigate any potential adverse effects, Aberdeenshire Archaeology Services has also recommended that a written scheme be submitted/approved for investigation, recording and recovery of any archaeology from the driving range site. This will include a trial trenching evaluation, to determine whether further investigation is required. In 2010, a similar evaluation exercise was required to be undertaken for the adjoining Duncansfield development.

Overall, and subject to undertaking the required building survey and archaeological evaluation, the proposal would accord with planning policy and not have any unacceptable or significant adverse effects upon cultural heritage interests.

### **Impact on natural heritage (E1, E2, E3, IMP1)**

Policies E1, E2 and E3 seek to protect and avoid adverse impacts occurring upon designated nature conservation sites and protected habitats and species, and require identification of measures to mitigate any adverse impacts of the development upon sites, habitats or species.

The site is not the subject of any site-specific nature conservation designation. As submitted, the PEA (which is not a specialist vegetation survey) considers that the grassland area currently used as a driving range is poor species amenity grass offering little benefit as habitat for wildlife. The small area of woodland, located close to an area of proposed building works in south-eastern corner adjacent to Duncansfield, is likely to be affected by such disturbance however, the proposed resultant loss of this area is considered to have an insignificant impact on wildlife, except in relation to bats, and with no notable plants species or protected species being identified, the PEA considers this part of the site is of limited ecological or conservation value. The appraisal recommends that all existing buildings and trees/bushes are checked for bird nests before removal and following consultation, SNH endorse this recommendation.

An initial Preliminary Bat Roost Assessment was inconclusive about whether bats used the existing cottages, leading to a Summer Bat Survey which, as undertaken, confirms the presence of two common pipistrelle and one soprano pipistrelle bat roosts which would be destroyed during demolition of these cottages. Given the impact on bat species, a licence to disturb bats will be required from SNH. After appraisal, the Council considers that the conditions or "tests" for a licence would likely be met (Appendix 2).

A number of mitigation measures are identified to ensure that bats are not harmed during the development including further pre-commencement inspections to confirm the presence of bats and further emergence surveys to determine any changes in circumstance; works around the bat roost to be undertaken by hand, ideally with a licenced bat worker in attendance; retention of trees along the access track leading to/from the cottages along the southern boundary of the site; attention to lighting within the development; and the provision of bat boxes, to an approved design, to be placed on nearby trees or buildings to provide alternative roosting sites (Appendix 2).

In light of the above matters and subject to conditions where recommended, the proposal would not have unacceptable or significant adverse effects on nature conservation interests, in particular protected species and accord with relevant planning policy.

### **Pollution impacts (EP8, EP9, IMP1)**

Policy EP8 requires investigation and appropriate mitigation where significant pollution (from noise, etc.) may be caused by a development. Policy EP9 requires investigation and effective remediation of any potential contaminated land on which the development is located. Policy IMP1 requires proposals to address any potential risks of pollution in accordance with recognised pollution prevention and environmental control measures.

Following consideration, the Environmental Health Manager has not objected to the proposal in terms of adverse pollution impacts, whether in amenity or nuisance terms regarding noise, disturbance or dust etc. No mitigation measures, for example restriction on construction working times etc. are required/proposed in relation to the impact of on-site construction activity upon any nearby neighbouring property, whether within or adjoining the site. The adjoining Duncanshill/Duncansfield and Glassgreen developments

were similarly approved without such restrictions (conditions) required to address/mitigate any adverse pollution impact.

The Screening Opinion adopted for this development concluded that with both commitments to, and adoption of, appropriate site working practices, including attention to 'best practice' measures and adherence to other legislation and standards, significant (residual) pollution effects including noise and dust etc. were unlikely to occur but if such impacts were to occur then, they could be managed and addressed by other legislation. In the absence of any unacceptable or significant adverse pollution effects being identified, the proposal is considered acceptable and accords with Policy EP8.

Following consideration of the supporting ground investigation report and to address any outstanding contaminated land issues associated with any previous or current use of the site, the Council's Contaminated Land Section has recommended a condition requiring further investigation and appropriate remediation thereafter, to ensure the development complies with policy EP9.

To address and minimise impacts of the development upon the environment, SEPA has recommended the preparation and implementation of a site-specific Construction Method Statement (CMS), to systematically identify and address all potential pollution risks and aspects of the site and the development that might adversely impact on the environment together with identification of all required pollution prevention and mitigation measures to be adopted/implemented. The CMS can also be used to manage construction impacts for example waste, shortage of fuel and chemicals, as well as construction SUDs, noise and dust etc.

SEPA indicates that the CMS can also be used to control and manage construction impacts, for example in terms of waste storage of fuel and chemicals as well as construction SUDs, and to address the implications and options for any "soft compressible soils such as peat" as highlighted within a supporting drawing (and although there appears to be no indication that peat has been found on the site, this requirement could then address policy ER6).

In light of the above considerations and subject to conditions were recommended, the proposal would not have any unacceptable or significant adverse pollution, including contaminated land impacts, and accord with relevant planning policy.

### **Developer Obligations (IMP3)**

Policy IMP3 seeks contributions where development has a measurable adverse or negative impact upon existing infrastructure, community facilities or amenity. At present, supplementary planning guidance is being prepared but is neither finalised nor agreed for use when considering development proposals. In developing planning obligations, Circular 3/2012 advises that consideration should be given to the economic viability of proposals, and that concluding planning obligations should not delay the benefits of appropriately planned development that is generally in accordance with policy nor add significant costs for developers and infrastructure providers (paragraph 2).

In this case, and to mitigate identified impacts associated with the development, Aberdeenshire Council's Developer Obligations Unit (DOU) identified requirements for contributions towards primary and secondary education facilities based upon proposals being progressed by this Council. Separately, the Transportation Manager identified a

proportionate contribution taking account of the cumulative impact of development traffic upon the A941/Edgar Road/Linkwood Road roundabout junction (Elgin TSP31).

The contributions as identified were the subject of discussion and negotiations with the applicant. The latter also undertook an appraisal about the requirements and particular costs associated with developing the site and impact upon the viability of the development. Following negotiations with the applicant, involvement of the District Valuer, and after a re-assessment regarding viability and circumstances of the site, the DOU advise that it is deemed reasonable to reduce the required level of contribution. In this case, the revised and agreed amount of contribution represents approx. 43.8% of the total obligation amount as originally requested. (A similar appraisal process and reduced level of contribution was undertaken for the recent application for development at Linkwood Farm (application 15/02032/APP refers)).

As discussed with the applicant, the agreed contribution is to be used solely towards the provision of primary education facilities. The obligation will be payable in five instalments (or tranches) related to house completions across the site. The contribution arrangements will be subject to a legal agreement, to be completed prior to issue of any formal grant of planning permission.

### **Conclusion and Recommendation**

134 new houses - a mix of private and affordable, and accessible housing accommodation - is proposed on land to the east of Birnie Road. The majority of the site comprises an existing driving range which is designated for residential development (Elgin R9) together with land to the north of the driving range and along the northern boundary of the site which is also designated for residential development (Elgin R10). The development will be accessed from Birnie Road (by two priority access junctions) and also from the adjoining Duncansfield development to the east and allow for access by vehicles, public transport, pedestrian and cycles both within the development and/or also to the wider area.

The proposal does not fully accord with the site-specific requirements of the Elgin R9 designation in relation to the provision of landscaping along Birnie Road and overall requirements for open space within the development, but subject to conditions as recommended, the proposal can be considered as an acceptable departure from the development plan (for the reasons as set out elsewhere in this report). In all other respects, the proposal in terms of its design, site layout and servicing arrangements is considered acceptable, it is considered compliant with place-making principles, it will not have an unacceptable or significant adverse effect upon the surrounding (natural and built) environment, and there are no material considerations that indicate otherwise.

It is recommended that planning permission be granted for the proposal as amended but subject first to the prior completion of a legal agreement in relation to an agreed level of developer obligation (contribution) to mitigate the impact of the development upon primary education facilities.

### **REASON(S) FOR DECISION**

The Council's reason(s) for making this decision are: -

134 new houses - a mix of private and affordable, and accessible housing accommodation - is proposed on land to the east of Birnie Road. The majority of the site comprises an existing driving range which is designated for residential development (Elgin R9) together

with land to the north of the driving range and along the northern boundary of the site which is also designated for residential development (Elgin R10). The development will be accessed from Birnie Road (by two priority access junctions) and also from the adjoining Duncansfield development to the east and allow for access by vehicles, public transport, pedestrian and cycles both within the development and/or also to the wider area.

The proposal does not fully accord with the site-specific requirements of the Elgin R9 designation in relation to the provision of landscaping along Birnie Road and overall requirements for open space within the development, but subject to conditions as recommended, the proposal can be considered as an acceptable departure from the development plan. In all other respects, the proposal in terms of its design, site layout and servicing arrangements is considered acceptable, it is considered compliant with place-making principles, it will not have an unacceptable or significant adverse effect upon the surrounding (natural and built) environment, and there are no material considerations that indicate otherwise.

The proposal is subject to a legal agreement in relation to an agreed level of developer obligation (contribution) to mitigate the impact of the development upon primary education facilities.

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## **APPENDIX**

### **POLICY**

#### **Adopted Moray Local Development Plan 2015**

##### **R9: Driving Range Site**

This site extends to 4.81 hectares and has capacity for 120 houses. Landscape planting within and around the site must be provided. Landscaping on the western boundary along Birnie Road must be to an average depth of 20 m. Foot and cycle routes must be provided along the frontage onto Birnie Road. Internal connections and links east to west should be provided. Depending on the provision within R8 a bus corridor/public transport route may require to be incorporated, in any case, appropriate active travel links to the bus corridor must be provided.

A Transport Assessment and Roads Drainage Assessment require to be submitted with proposals. The impact on the following junctions must be considered TSP 25, 26, 27, 28, 30, 31. (See TSP list).

##### **TSP25: Edgar Road/The Wards/Glen Moray Drive**

Junction improvement associated with developments on the south side of Elgin.

##### **TSP26: Glen Moray Drive/Springfield Road/Sandy Road**

Junction improvement associated with developments on the south side of Elgin, and road widening.

##### **TSP27: Sandy Road/Birnie Road Roundabout**

New roundabout in place but future developments in south Elgin should assess for any impact on this junction. The process for identifying the impact and the level of mitigation is through the submission and approval of a Transport Assessment acceptable to the Council.

##### **TSP28: Birnie Road**

New junction onto Birnie Road in association with development of R9. Relocation of speed limit; extension of street lighting; footways and cycleways required.

##### **TSP30: Thornhill Road/Birnie Road**

New roundabout in place but future developments in south Elgin should assess for any impact on this junction. The process for identifying the impact and the level of mitigation is through the submission and approval of a Transport Assessment acceptable to the Council.

## **TSP31: Edgar Road/New Elgin Road**

Appraisal of this junction based on the development that has been given consent already shows insufficient traffic capacity at this junction. It should be noted that scope for additional capacity improvement at this location is limited due to land constraints adjacent to the junction. Junction improvement will be essential for designated sites in the immediate vicinity of the junction (OPP1 and OPP5). Junction improvement will also be required for any other sites being developed in Elgin (north and south of the railway line) which would impact on this junction. The process for identifying the impact and the level of mitigation is through the submission and approval of a Transport Assessment acceptable to the Council. Developers are urged to contact Transportation at the earliest opportunity to clarify the scoping matters for a Transport Assessment.

### **Primary Policy PP1: Sustainable Economic Growth**

The Local Development Plan identifies employment land designations to support requirements identified in the Moray Economic Strategy. Development proposals which support the Strategy and will contribute towards the delivery of sustainable economic growth and the transition of Moray towards a low carbon economy will be supported where the quality of the natural and built environment is safeguarded and the relevant policies and site requirements are met.

### **Primary Policy PP2: Climate Change**

In order to contribute to reducing greenhouse gas emissions, developments of 10 or more houses and buildings in excess of 500 sq. m should address the following:

- Be in sustainable locations that make efficient use of land and infrastructure
- Optimise accessibility to active travel options and public transport
- Create quality open spaces, landscaped areas and green wedges that are well connected
- Utilise sustainable construction techniques and materials and encourage energy efficiency through the orientation and design of buildings
- Where practical, install low and zero carbon generating technologies
- Prevent further development that would be at risk of flooding or coastal erosion
- Where practical, meet heat and energy requirements through decentralised and local renewable or low carbon sources of heat and power
- Minimise disturbance to carbon rich soils and, in cases where it is agreed that trees can be felled, to incorporate compensatory tree planting.

Proposals must be supported by a Sustainability Statement that sets out how the above objectives have been addressed within the development. This policy is supported by supplementary guidance on climate change.



## **Primary Policy PP3: Placemaking**

All residential and commercial (business, industrial and retail) developments must incorporate the key principles of Designing Streets, Creating Places and the Council's supplementary guidance on Urban Design.

Developments should;

- create places with character, identity and a sense of arrival
- create safe and pleasant places, which have been designed to reduce the fear of crime and anti social behaviour
- be well connected, walkable neighbourhoods which are easy to move around and designed to encourage social interaction and healthier lifestyles
- include buildings and open spaces of high standards of design which incorporate sustainable design and construction principles
- have streets which are designed to consider pedestrians first and motor vehicles last and minimise the visual impact of parked cars on the street scene.
- ensure buildings front onto streets with public fronts and private backs and have clearly defined public and private space
- maintain and enhance the natural landscape features and distinctive character of the area and provide new green spaces which connect to green and blue networks and promote biodiversity
- The Council will work with developers and local communities to prepare masterplans, key design principles and other site specific planning guidance as indicated in the settlement designations.

## **Policy H1: Housing Land**

### **Designated sites**

Land has been designated to meet the strategic housing land requirements 2013-2025 in the settlement statements as set out in Table 1. Proposals for development on all designated housing sites must include or be supported by information regarding the comprehensive layout and development of the whole site. This allows consideration of all servicing, infrastructure and landscaping provision to be taken into account at the outset. It will also allow an assessment of any contribution or affordable housing needs to be made. Proposals must comply with the site development requirements within the settlement plans and policies and the Council's policy on Place- making and Supplementary Guidance, "People and Places".

### **Windfall sites within settlements**

New housing on land not designated for residential development within settlement boundaries will be acceptable if;

- a) The proposal does not adversely impact upon the surrounding environment, and
- b) Adequate servicing and infrastructure is available, or can be made available
- c) The site is not designated for an alternative use
- d) The requirements of policies PP2, PP3 and IMP1 are met.

### **Housing Density**

Capacity figures indicated within site designations are indicative and proposed capacities will be considered against the characteristics of the site, conformity with policies PP3, H8 and IMP1.

### **Policy H8: Affordable Housing**

Proposals for new housing developments of 4 or more units (including conversions) must provide 25% of the total units as affordable housing.

A higher percentage contribution may be appropriate subject to funding availability as informed by the Local Housing Strategy. A lesser contribution or alternative in the form of off-site provision or a commuted payment will only be considered where exceptional site development costs or other project viability issues are demonstrated.

Supplementary or other guidance will provide further details of this policy including the proportion of provision, the specification of wheelchair accessible housing and the exceptions that may apply.

### **Policy H9: Housing Mix/Accessible Housing**

Proposals for multiple houses must meet the needs of smaller households, older people and other needs (e.g. extra care housing) identified in the Council's Housing Need and Demand Assessment.

All new residential developments must provide a range of housing of different types and sizes which should reflect the requirements of the Local Housing Strategy. Different house types should be well integrated, ensuring that the siting and design is appropriate to the location and does not conflict with the character of the local area.

Housing proposals of 10 or more units will be required to provide a proportion of wheelchair accessible housing. Flexibility may apply on less accessible sites and/or where an alternative acceptable housing mix is proposed.

Off site provision may be acceptable where sites do not have good access to local services and facilities and are not considered appropriate for housing for older people.

Supplementary or other guidance will provide further details of this policy including the proportion of provision, the specification of wheelchair accessible housing and the exceptions that may apply.

## **Policy E1: Natura 2000 Sites and National Nature Conservation Sites**

### **Natura 2000 designations**

Development likely to have a significant effect on a Natura 2000 site which is not directly connected with or necessary to its conservation management must be subject to an appropriate assessment of the implications for its conservation objectives. Proposals will only be approved where the appropriate assessment has ascertained that there will be no adverse effect on the integrity of the site.

In exceptional circumstances, proposals that could affect the integrity of a Natura site may be approved where;

- a) there are no alternative solutions; and
- b) there are imperative reasons of over-riding public interest including those of a social or economic nature, and
- c) if compensatory measures are provided to ensure that the overall coherence of the Natura network is protected.

For Natura 2000 sites hosting a priority habitat or species (as defined in Article 1 of the Habitats Directive), prior consultation with the European Commission via Scottish Ministers is required unless either the imperative reasons of overriding public interest relate to human health, public safety or beneficial consequences of primary importance to the environment.

### **National designations**

Development proposals which will affect a National Park, Site of Special Scientific Interest (SSSI) or National Nature Reserves will only be permitted where:

- a) the objectives of designation and the overall integrity of the area will not be compromised; or
- b) any significant adverse effects on the qualities for which the site has been designated are clearly outweighed by social, environmental or economic benefits of national importance.

## **Policy E2: Local Nature Conservation Sites and Biodiversity**

Development likely to have a significant adverse effect on Local Nature Reserves, native woodlands identified in the Native Woodland Survey of Scotland, raised peat bog, wetlands, protected species, wildlife sites or other valuable local habitat or conflict with the objectives of Local Biodiversity Action Plans will be refused unless it can be demonstrated that;

- a) local public benefits clearly outweigh the nature conservation value of the site, and
- b) there is a specific locational requirement for the development

Where there is evidence to suggest that a habitat or species of importance exists on the site, the developer will be required at his own expense to undertake a survey of the site's natural environment.

Where development is permitted which could adversely affect any of the above habitats or species the developer must put in place acceptable mitigation measures to conserve and enhance the site's residual conservation interest.

Development proposals should protect and where appropriate, create natural and semi natural habitats for their ecological, recreational and natural habitat values. Developers will be required to demonstrate that they have considered potential improvements in habitat in the design of the development and sought to include links with green and blue networks wherever possible.

### **Policy E3: Protected Species**

Proposals which would have an adverse effect on a European protected species will not be approved unless;

- there is no satisfactory alternative; and
- the development is required to preserve public health or public safety, or for other reasons of overriding public interest, including those of a social or economic nature, and beneficial consequences of primary importance for the environment; and the development will not be detrimental to the maintenance of the population of species concerned at a favourable conservation status of the species concerned.

Proposals which would have an adverse effect on a nationally protected species of bird will not be approved unless;

- There is no other satisfactory solution
- The development is necessary to preserve public health or public safety
- The development will not be detrimental to the conservation status of the species concerned.

Proposals which would have an adverse effect on badgers or their setts must be accompanied by a Badger Protection Plan to avoid, minimise or compensate for impacts. A licence from Scottish Natural Heritage may be required as well as planning permission. Where a protected species may be affected a species survey should be prepared to accompany the application to demonstrate how any offence under the relevant legislation will be avoided.

### **Policy E4: Trees and Development**

The Council will serve Tree Preservation Orders (TPO's) on potentially vulnerable trees which are of significant amenity value to the community as a whole, or trees of significant biodiversity value.

Within Conservation Areas the Council will only agree to the felling of dead, dying, or dangerous trees. Trees felled within Conservation Areas or subject to TPO protection should be replaced, unless otherwise agreed with the Council.

Woodland removal will only be permitted where it would achieve significant and clearly defined additional public benefits. Where woodland is removed in association with development, developers will generally be expected to provide compensatory planting. The Council may attach conditions on planning consents ensuring that existing trees and hedges are retained or replaced.

Development proposals will be required to meet the requirements set out in the Council's Trees and Development Supplementary Guidance. This includes carrying out a tree survey to identify trees on site and those to be protected. A safeguarding distance should be retained between mature trees and proposed developments.

When imposing planting or landscaping conditions, native species should be used and the Council will seek to promote green corridors.

Proposals affecting woodland will be considered against Policy ER2.

## **Policy E5: Open Spaces**

### **Safeguarding Open Spaces**

Development which would cause the loss of, or adversely impact on, areas identified under the ENV designation in settlement statements and the amenity land designation in rural groupings will be refused unless;

- The proposal is for a public use that clearly outweighs the value of the open space or the proposed development is ancillary to the principal use and will enhance use of the site for sport and recreation; and
- The development is sited and designed to minimise adverse impacts on the recreational, amenity and biodiversity value of the site; and
- There is a clear excess of the type of ENV designation within easy access in the wider area and loss of the open space will not negatively impact upon the overall quality and quantity of open space provision, or
- Alternative provision of equal or greater benefit will be made available and is easily accessible for users of the developed space.

### **Provision of new Open Spaces**

#### **Quantity**

New green spaces should be provided to the following standards;

- Residential sites less than 10 units - landscaping to be determined under the terms of policies PP3 and IMP1 to integrate the new development.
- Residential sites 10-50 units and new industrial sites- minimum 15% open space

- Residential sites 51-200 units- minimum 20% open space
- Residential sites 201 units and above and Business Parks- minimum 30% open space including allotments, formal parks and playspaces within residential sites.

## **Quality**

New green spaces should be;

- Overlooked by buildings with active frontages
- Well positioned, multi functional and easily accessible
- Well connected to adjacent green and blue corridors, public transport and neighbourhood facilities
- Safe, inclusive and welcoming
- Well maintained and performing an identified function
- Support the principles of Placemaking policy PP3.

## **Allotments**

Proposals for allotments on existing open spaces will be supported where they do not adversely affect the primary function of the space or undermine the amenity value of the area and where a specific locational requirement has been identified by the Council. Consideration will include related aspects such as access and car parking and not just the allotment area itself.

## **Policy BE1: Scheduled Monuments and National Designations**

### **National Designations**

Development Proposals will be refused where they will adversely affect Scheduled Monuments and nationally important archaeological sites or their settings unless the developer proves that any significant adverse effect on the qualities for which the site has been designated are clearly outweighed by social or economic benefits of national importance.

### **Local Designations**

Development proposals which will adversely affect sites of local archaeological importance or the integrity of their settings will be refused unless it can be demonstrated that;

- a) Local public benefits clearly outweigh the archaeological value of the site, and
- b) There is no suitable alternative site for the development, and
- c) Any adverse effects can be satisfactorily mitigated at the developers' expense

Where in exceptional circumstances, the primary aim of preservation of archaeological features in situ does not prove feasible, the Council shall require the excavation and researching of a site at the developers expense.

The Council will consult Historic Scotland and the Regional Archaeologist on development proposals which may affect Scheduled Monuments and archaeological sites.

### **Policy EP5: Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS)**

Surface water from development should be dealt with in a sustainable manner that has a neutral effect on the risk of flooding or which reduces the risk of flooding. The method of dealing with surface water should also avoid pollution and promote habitat enhancement and amenity. All sites should be drained by a sustainable drainage system (SUDS). Drainage systems should contribute to enhancing existing "blue" and "green" networks while contributing to place-making, biodiversity, recreational, flood risk and climate change objectives.

Specific arrangements should be made to avoid the issue of permanent SUD features becoming silted-up with construction phase runoff. Care must be taken to avoid the introduction of invasive non-native species during the construction of all SUD features.

Applicants must agree provisions for long term maintenance of the SUDS scheme to the satisfaction of the Council in consultation with SEPA and Scottish Water as appropriate.

A Drainage Assessment (DA) will be required for developments of 10 houses or more, industrial uses, and non-residential proposals of 500 sq. metres and above.

The Council's Flood Team will prepare Supplementary Guidance on surface water drainage and flooding.

### **Policy EP6: Waterbodies**

Proposals must be designed to avoid adverse impacts upon water environment and should seek opportunities for restoration. The Council will only approve proposals impacting on water features where the applicant provides a satisfactory report that demonstrates that any impact (including cumulative) on water quality, water quantity, physical form (morphology), river hydrology, sediment transport and erosion, nature conservation, fisheries, recreational, landscape, amenity, and economic and social impact can be adequately mitigated.

The report should consider existing and potential impacts up and downstream of the development particularly in respect of potential flooding. The Council operates a presumption against the culverting of watercourses and any unnecessary engineering works in the water environment.

A buffer strip of at least 6m between any new development and all water features is required. These should be designed to link with blue and green networks and can contribute to open space requirements. Developers may be required to make improvements to the water environment as part of the development.

## Policy EP7: Control of Development in Flood Risk Areas

New development should not take place if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere. Proposals for development in areas considered to be at risk from flooding will only be permitted where a flood risk assessment to comply with the recommendations of National Guidance and to the satisfaction of both the Scottish Environment Protection Agency and the Council is provided by the applicant. This assessment must demonstrate that any risk from flooding can be satisfactorily mitigated without increasing flood risk elsewhere. Due to continuing changes in climatic patterns, the precautionary principle will apply when reviewing any application for an area at risk from inundation by floodwater.

The following limitations on development will also be applied to take account of the degree of flooding as defined in Scottish Planning Policy;

- a) In areas of little to no risk (less than 0.1%) there will be no general constraint to development.
- b) Areas of low to medium risk (0.1% to 0.5%) will be considered suitable for most development. A flood risk assessment may be required at the upper end of the probability range (i.e. close to 0.5%), and for essential civil infrastructure and most vulnerable uses. Water resistant materials and construction may be required. Areas within this risk category will generally not be suitable for civil infrastructure. Where civil infrastructure must be located in these areas or is being substantially extended, it should be designed to be capable of remaining operational and accessible during extreme flooding events.
- c) Areas of medium to high risk (0.5% or above) may be suitable for:
  - Residential, institutional, commercial and industrial development within built up areas provided flood protection measures to the appropriate standard already exist and are maintained, are under construction, or are a planned measure in a current flood management plan;
  - Essential infrastructure within built up areas, designed and constructed to remain operational during floods and not impede water flow;
  - Some recreational, sport, amenity and nature conservation uses, provided appropriate evacuation procedures are in place and
  - Job related accommodation e.g. for caretakers or operational staff.

Areas within these risk categories will generally not be suitable:

- Civil infrastructure and most vulnerable uses;
- Additional development in undeveloped and sparsely developed areas, unless a location is essential for operational reasons, e.g. for navigation and water based recreation, agriculture, transport or utilities infrastructure (which should be designed to be operational during floods and not impede water flow), and
- An alternative, lower risk location is not available and



- New caravan and camping sites.

Where development is permitted, measures to protect against or manage flood risk will be required and any loss of flood storage capacity mitigated to achieve a neutral or better outcome. Water resistant materials and construction should be used where appropriate. Elevated buildings on structures such as stilts are unlikely to be acceptable.

### **Policy EP8: Pollution**

Planning applications for developments that may cause significant pollution in terms of noise (including RAF aircraft noise), air, water and light emissions will only be approved where a detailed assessment report on the levels, character and transmission of the potential pollution is provided by the applicant. The assessment should also demonstrate how the pollution can be appropriately mitigated. Where the Council applies conditions to the consent to deal with pollution matters these may include subsequent independent monitoring of pollution levels.

### **Policy EP9: Contaminated Land**

Development proposals on potentially contaminated land will be approved provided that:

- a) The applicant can demonstrate through site investigations and risk assessment, that the site is in a condition suitable for the proposed development and is not causing significant pollution of the environment; and
- b) Where necessary, effective remediation measures are agreed to ensure the site is made suitable for the new use and to ensure appropriate disposal and/or treatment of any hazardous material.

The Council recommends early contact with the Environmental Health Section, which can advise what level of information will need to be supplied.

### **Policy EP10: Foul Drainage**

All development within or close to settlements (as defined in the Local Development Plan) of more than 2,000 population equivalent will require to connect to the public sewerage system unless connection to the public sewer is not permitted due to lack of capacity. In such circumstances, temporary provision of private sewerage systems may be allowed provided Scottish Water has confirmed investment to address this constraint has been specifically allocated within its current Quality Standards Investment Programme and the following requirements apply:

- Systems shall not have an adverse impact on the water environment;
- Systems must be designed and built to a standard which will allow adoption by Scottish Water.
- Systems must be designed such that they can be easily connected to a public sewer in the future. Typically this will mean providing a drainage line up to a likely point of connection.

All development within or close to settlements (as identified in the Local Development Plan) of less than 2000 population equivalent will require to connect to public sewerage system except where a compelling case is made otherwise. Factors to be considered in such a case will include size of the proposed development, whether the development would jeopardise delivery of public sewerage infrastructure and existing drainage problems within the area. Where a compelling case is made, a private system may be acceptable provided it does not pose or add risk of detrimental effect, including cumulative, to the natural and built environment, surrounding uses or amenity of the general area. Consultation with Scottish Environment Protection Agency will be undertaken in these cases.

Where a private system is deemed to be acceptable (within settlements as above or small scale development in the countryside) a discharge to land (either full soakaway or raised mound soakaway) compatible with Technical Handbooks (which sets out guidance on how proposals may meet the Building (Scotland) Regulations 2004) should be explored prior to considering a discharge to surface waters.

### **Policy ER6: Soil Resources**

Where peat and other carbon rich soils are present disturbance to them may lead to the release of carbon dioxide contributing to the greenhouse gas emissions. Developers should assess the likely effects associated with any development work and aim to mitigate any adverse impacts arising.

For major developments, minerals and large scale (over 20MW) renewable energy proposals, development will only be permitted where it has been demonstrated that unnecessary disturbance of soils, peat and any associated vegetation is avoided. Evidence of the adoption of best practice in the movement, storage, management and reinstatement of soils must be submitted along with any relevant planning application, including if necessary measures to prevent the spread of invasive non-native species.

Major developments, minerals and large scale renewable energy proposals on undisturbed areas of deep peat (defined as 1.0m or more) will only be permitted for these uses where:

- a) the economic, social and/or environmental benefits of the proposal outweigh any potential detrimental effect on the environment (in particular with regard to the release of carbon dioxide into the atmosphere); and
- b) it has been clearly demonstrated that there is no viable alternative.

Where development on undisturbed peat is deemed acceptable, a peat depth survey must be submitted which demonstrates that the areas of deepest peat have been avoided. Where required, a peat management plan must also be submitted which demonstrates that unnecessary disturbance, degradation or erosion of peat is avoided.

Large scale commercial peat extraction will not be permitted.

### **Policy T1: Transport Infrastructure Improvements**

The Council will promote the improvement of road, rail, air and sea routes in Moray and priority will be given to:

- a) dualling the A96 Aberdeen to Inverness route with early delivery of bypasses for settlements prioritised.
- b) improving the A95 (Keith to Grantown) route.
- c) Improving A941 (Lossiemouth to Elgin to Craigellachie) and A98 (Fochabers to Cullen) routes. Proposals must avoid or address any adverse effect on the integrity of Loch Spynie SPA or the River Spey SAC including hydrological and water quality impacts on habitat or disturbance to species.
- d) improving the Aberdeen to Inverness railway for passengers and freight by providing route and service enhancement.
- e) improving harbour facilities for freight and leisure including the diversification of the commercial harbour at Buckie for offshore renewables. Harbour improvement works must avoid or address any adverse effect on the integrity of the Moray Firth Special Area of Conservation through noise or vibration disturbance to bottlenose dolphins, cumulative increase in vessel movements, or through dredging and disposal operations.
- f) improving access to air facilities, at Aberdeen and Inverness, in particular through public transport, and the establishment of a railway station at Dalcross.
- g) improving the transport network within Elgin where there is evidence of positive economic benefits including release of sites designated in the local development plan.

Proposals that compromise the implementation of these priorities will not be acceptable.

## **Policy T2: Provision of Access**

The Council will require that new development proposals are designed to provide the highest level of access for end users including residents, visitors, and deliveries appropriate to the type of development and location. Development must meet the following criteria:

- Proposals must maximise connections and routes for pedestrian and cyclists, including links to active travel and core path routes, to reduce travel demands and provide a safe and realistic choice of access.
- Provide access to public transport services and bus stop infrastructure where appropriate.
- Provide appropriate vehicle connections to the development, including appropriate number and type of junctions.
- Provide safe entry and exit from the development for all road users including ensuring appropriate visibility for vehicles at junctions and bends.
- Provide appropriate mitigation/modification to existing transport networks where required to address the impacts of new development on the safety and efficiency of

the transport network. This may include but would not be limited to, the following measures, passing places, road widening, junction enhancement, bus stop infrastructure and drainage infrastructure. A number of potential road improvements have been identified in association with the development of sites the most significant of these have been shown on the Settlement Map as TSPs.

- Proposals must avoid or mitigate against any unacceptable adverse landscape or environmental impacts.

Developers should give consideration to aspirational core paths (under Policy 2 of the Core Paths Plan) and active travel audits when preparing proposals.

New development proposals should enhance permeability and connectivity, and ensure that opportunities for sustainable and active travel are protected and improved.

The practicality of use of public transport in more remote rural areas will be taken into account however applicants should consider innovative solutions for access to public transport.

When considered appropriate by the planning authority developers will be asked to submit a Transport Assessment and Travel Plan.

Significant travel generating proposals will only be supported where:

- Direct links to walking and cycling networks are available;
- Access to public transport networks would involve walking no more than 400m;
- It would not have a detrimental effect on the capacity of the strategic road and/or rail network; and
- A Transport Assessment identifies satisfactory mechanisms for meeting sustainable transport requirements and no detrimental impact to the performance of the overall network.

Access proposals that have a significant adverse impact on the surrounding landscape and environment that cannot be mitigated will be refused.

### **Policy T5: Parking Standards**

Proposals for development must conform with the Council's current policy on parking standards.

### **Policy T6: Traffic Management**

There is a presumption against new accesses onto a trunk road, and Transport Scotland will consider the case for such junctions where nationally significant economic growth or regeneration benefits can be demonstrated.

There will also be a presumption against new direct access onto other main/key routes (the A941 and A98) except where required to support the provisions of the development plan. Moray Council will consider the case for such junctions where significant regional

economic growth benefits can be demonstrated. Consideration will be given to the traffic impact, appropriate road design and traffic management requirements.

### **Policy T7: Safeguarding & Promotion of Walking, Cycling, & Equestrian Networks**

The Council will promote the improvement of the walking, cycling, and equestrian networks within Moray. Priority will be given to the paths network including Core Paths and the wider Moray Paths Network. There are several long distance routes that cross Moray including the Speyside Way, Dava Way, Moray Coastal Trail and Aberdeen to Inverness National Cycle Route.

Development proposals that would have an unacceptable impact on access rights, core paths, rights of way, long distance routes and other access routes that cannot be adequately mitigated will not be permitted. Where a proposal will affect any of these, proposals must:

- incorporate the route within the site layout and the routes amenity value must be maintained or enhanced; or
- provide alternative access that is no less attractive and is safe and convenient for the public to use.

### **Policy IMP1: Developer Requirements**

New development will require to be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area. It should comply with the following criteria

- a) The scale, density and character must be appropriate to the surrounding area.
- b) The development must be integrated into the surrounding landscape
- c) Road, cycling, footpath and public transport must be provided at a level appropriate to the development. Core paths; long distance footpaths; national cycle routes must not be adversely affected.
- d) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water.
- e) Where of an appropriate scale, developments should demonstrate how they will incorporate renewable energy systems, and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria.
- f) Make provision for additional areas of open space within developments.
- g) Details of arrangements for the long term maintenance of landscape areas and amenity open spaces must be provided along with Planning applications.
- h) Conservation and where possible enhancement of natural and built environmental resources must be achieved, including details of any impacts arising from the disturbance of carbon rich soil.

- i) Avoid areas at risk of flooding, and where necessary carry out flood management measures.
- j) Address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- k) Address and sufficiently mitigate any contaminated land issues
- l) Does not sterilise significant workable reserves of minerals or prime quality agricultural land.
- m) Make acceptable arrangements for waste management.

### **Policy IMP2: Development Impact Assessments**

The Council will require applicants to provide impact assessments in association with planning applications in the following circumstances:

- a) An Environmental Assessment (EA) will be required for developments that are likely to have significant environmental affects under the terms of the regulations.
- b) A Transport Assessment (TA) will be sought where a change of use or new development is likely to generate a significant increase in the number of trips being made. TAs should identify any potential cumulative effects which would need to be addressed. Transport Assessments should assess the effects the development will have on roads and railway infrastructure including stations and any crossings. Transport Scotland (Trunk Roads) and Network Rail (Railway) should be consulted on the scoping of Transport Assessments. Moray Council's Transportation Service can assist in providing a screening opinion on whether a TA will be sought.
- c) In order to demonstrate that an out of centre retail proposal will have no unacceptable individual or cumulative impact on the vitality and viability of the identified network of town centres, a Retail Impact Assessment will be sought where appropriate. This may also apply to neighbourhood shops, ancillary retailing and recreation/tourism retailing.
- d) Where appropriate, applicants may be asked to carry out other assessments (e.g. noise; air quality; flood risk; drainage; bat; badger; other species and habitats) in order to confirm the compatibility of the proposal.

### **Policy IMP3: Developer Obligations**

Contributions will be sought from developers in cases where, in the Council's view, a development would have a measurable adverse or negative impact upon existing infrastructure, community facilities or amenity, and such contributions would have to be appropriate to reduce, eliminate or compensate for that impact.

Where the necessary contributions can be secured satisfactorily by means of planning conditions attached to a planning permission, this should be done, and only where this cannot be achieved, for whatever reason, the required contributions should be secured through a planning agreement.

The Council will prepare supplementary guidance to explain how the approach will be implemented in accordance with Circular 3/2012 on Planning Obligations. This will detail the necessary facilities and infrastructure and the scale of contributions likely to be required.

In terms of affordable housing, developments of 4 or more units will be expected to make a 25% contribution, as outlined in policy H8.

### **R7 Birnie Road and R8 Glassgreen**

Sites R7 and R8 currently have consent for 178 units and are under construction (marketed as Duncanshill and Duncansfield). Removal of the bypass reservation allows for an additional 20 units to be accommodated above that already consented. An update to the Transport Assessment will require to be submitted with proposals. The impact on the following junctions must be considered TSP 25, 26, 27, 28, 30, 31. (See TSP list).

## **APPENDIX 2**

### **EC Directive 92/43/EEC: The Conservation of Natural Habitats and of Wild Flora and Fauna (“The Habitats Directive”) Conservation (Natural Habitats, &c.) Regulations 1994 (“The Habitats Regulations”)**

#### **Background**

Under Regulation 44 of the Habitats Regulations certain activities which normally constitute an offence against European Protected Species (EPS) can be carried out legally under a licence from Scottish Natural Heritage (SNH).

Decisions made by SNH, as the licensing authority, must be fully compliant with the Habitats Regulations and the EC Directive. However, it is essential that planning permission is not granted without the Council, as Planning Authority having first satisfied itself that the proposed development will not impact adversely on any European Protected Species on the site, and that the “tests” necessary for any eventual grant of a licence are likely to be met. To do otherwise would be to risk breaching the requirements of the Directive/Regulations, and present a real danger that the developer of the site would be unable to make practical use of the planning permission which had been granted because no Regulation 44 licence would be forthcoming: a situation which is in the interests of no-one.

Before any licence can be issued (and planning permission can be granted) three “tests” must be satisfied as set out below.

#### **Consideration of requirement for a licence**

Bats are a European Protected Species. In this case, a licence is required following site investigations: the applicant’s Summer Bat Survey (May/June 2016) confirms that with demolition of the two cottages, as part of a larger housing development, three roosts i.e. two *common pipistrelle* and one *soprano pipistrelle* bat roosts will be destroyed. According to the survey, the cottages have been heated and lived in until recently and whilst their construction could offer support for a maternity roost and/or offer a suitable roost site, it does not offer the necessary temperature regime to support winter roosts to hibernating bats especially as the cottages have been heated. The bats use the track in front of the cottages to commute between feeding areas and although there are currently no plans to do so, removal of any trees along the track would remove a valuable wildlife corridor for bats between good quality feeding sites to the east and west, both for the species identified and others also observed in the area. As the proposed site works i.e. demolition of the cottages will destroy roosts, a licence from SNH is required.

#### **Consideration of “tests”**

##### ***(1) that the activity proposed must fall within one of the licensable purposes listed in Regulation 44***

This proposal would satisfy a purpose identified under Regulation 44 (2) i.e. “(e) ... *for preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment.*”

Apart from any potential social, economic and other benefits derived from the delivery of housing, the cottages form part of a site which is specifically identified/designated for housing but there is no site-specific requirement that the existing cottages be retained as part of that development (Elgin R9 designation, Moray Local Development Plan 2015



refers). Until recently the cottages have been lived in and heated and whilst their construction may offer suitable roost habitat, they would not offer support as a winter roost to hibernating bats.

***(2) that there is no satisfactory alternative***

There is no satisfactory alternative to preserve the existing roosts as the cottages will be demolished to make way for new build housing and access infrastructure as part of a larger proposed housing development. The existing cottages are not afforded statutory protection, for example as a listed building nor are they specifically required to be retained as part of the proposed development and if retained, their presence would not be in keeping with the character and appearance of the proposed development. Also, if retained, there are a considerable amount of spaces within the cottages that the bats could use, hence exclusion would not be practical as the bats are likely to simply use another space. The greater degree of human activity and interference, including lighting associated with the development, would also impact on the bats and if the existing trees along the track were to be removed this would impact on the mobility of bats between feeding areas.

The survey confirms that the number of bats in each roost is low, the species affected are not uncommon, and relevant Bat Mitigation Guidance (2004) indicates there should be no timing or monitoring restrictions. Mitigation measures are identified which, if implemented, are intended to have minimal impact on bat species including further pre-commencement inspection of the roosts to determine whether bats remain present or conditions have changed, provision of bat boxes located near existing roosts to provide alternative roosts whilst building works are in progress, the removal of roofs around roosts by hand where safe to do so (preferably in the presence of, or in accordance with advice provided by, a licensed bat worker), a further emergence bat survey (dependent on timing of works), retention of the mature trees along the track if at all possible, and no exterior or street lighting should be positioned or cast light upwards on the boxes.

The mitigation measures as identified seek to reduce the impact on the identified protected bat species and if so undertaken, the residual impact on bats will be minimal with bats having suitable longer-term roosting sites to return to, at least replace those being destroyed and where possible enhancing the roosting sites available.

The Survey does not discuss/identify other alternative options but these are likely to be discounted including normally accepted mitigation measures, for example using raised slates on the existing roof because the cottages will be demolished and surrounded by new build development, except to the south (although further residential development is planned in this area (Elgin LONG2, MLDP 2015 refers). Thus, if the cottages were retained, this proposal is likely to create an area of “bat desert” between the cottages and suitable foraging and feeding habitats.

The survey includes a recommendation that an alternative roosting site be permanently incorporated into the new development, for example with in-built or exterior mounted bat boxes attached to be new buildings and/or use of raised slated/bat slates to provide crevices for bats to roost in but if it is not desirable to incorporate such a new roost into the development then, additional bat boxes should be fitted to a nearby structure.

***(3) that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range***

A small (low) number of bats -three - are affected. The species of bat – *common pipistrelle* and *soprano pipistrelle* – are not relatively uncommon. In this case, the loss of three roosts used by a small number of bats, most probably male, is unlikely to be detrimental to the maintenance of either species at a favourable conservation status in their natural range. Furthermore, measures are proposed to at least replace roosting sites destroyed with alternative roosting sites and, where possible, enhance roosting sites available in order to further mitigate (reduce or avoid) any unacceptable or significant adverse impact on the affected bat species. The appropriateness of the identified mitigation measures will require further consideration by SNH as part of the separate licence application required to disturb bats.

**Conclusion**

The existing (semi-detached) cottages are to be demolished as part of a development to provide new build housing on the site of the cottages and on adjoining land to the west and north development. The proposal will affect (remove) three bat roosts used by two bat species, both of which are not uncommon and the loss of roosts is unlikely to detract from their conservation status. Based upon the available information including a summer survey, an assessment of the impact of the development on bats and identification of the proposed mitigation and compensation measures, it is likely that the relevant “tests” for a licence would be met and a licence for demolition of the existing cottage would be forthcoming.

Without prejudice but should the pre-commencement survey work to be undertaken nearer to the time of demolition of the cottages indicate a change in use of the cottages by bats, it will be necessary to re-appraise and reconsider whether the “tests” for a licence are likely to be met.